

NON-PERSONAL HEARING

THE FOOTBALL ASSOCIATION

and

Mr STEVE MORGAN
Wolverhampton Wanderers FC

THE DECISION AND REASONS
OF THE FA REGULATORY COMMISSION

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Introduction

1. On 06 December 2014, Wolverhampton Wanderers FC (“Wolverhampton Wanderers”, “the Club”) played a Football League Championship home fixture against AFC Bournemouth (“Bournemouth”), with a kick-off time of 3pm – (collectively “the match”).
2. The Match Officials appointed were Mr Michael Jones, the Referee, Mr Graham Scott, the Fourth Official, Mr Richard West and Mr Mark Scholes, the Assistant Referees. Mr Brian Curson was also in attendance at the match as the Assessor.
3. Mr Steve Morgan is the Chairman of Wolverhampton Wanderers and was in attendance at the match.
4. It was alleged that Mr Morgan went to the pitch side, by the touchline near the tunnel entrance, after the match and made some comments to the Referee.

The Charge

5. On 08 December 2014, The Football Association (“The FA”) charged Mr Morgan with misconduct for a breach of FA Rule E3, alleging that Mr Morgan’s language and/or behaviour after the end of the fixture, as evidenced in the reports and video clip being relied upon, was abusive and/or insulting and/or improper (“the Charge”).
6. The FA also advised Mr Morgan that this case had been designated as a Non Standard Case due to the unusual nature of the reported behaviour and/or the potential incitement of the crowd.
7. The FA enclosed, the following evidence that it intended to rely on:
 - 7.1. Report of the Match Referee, Mr Michael Jones, dated 06 December 2014;
 - 7.2. Report of the Fourth Official, Mr Graham Scott, dated 06 December 2014;
 - 7.3. Report of the Assistant Referee, Mr Richard West, dated 06 December 2014;

- 7.4. Report of the Assistant Referee, Mr Mark Scholes, dated 07 December 2014;
 - 7.5. Report of the Assessor, Mr Brian Curson, dated 07 December 2014; and
 - 7.6. A video clip of the incident (viewable via the link sent to the Club).
8. Mr Morgan was required to reply to the Charge by 6pm on 11 December 2014.

The Reply

9. On 11 December 2014, Mr Morgan responded by partially admitting to the Charge, did not request an opportunity to attend a Commission for a personal hearing, and elected the Charge to be dealt with at a paper hearing on the content of the documents served on him and documentation he supplied to The FA (collectively “the Reply”).
10. Mr Morgan submitted a letter of explanation, which included a “basis of plea” accepting the behaviour and all but one expletive word that he was alleged to have said.
11. Mr Morgan stated that if his claim that he did not use this one expletive word was not acceptable then he would wish to seek a personal hearing, requiring Mr Jones to attend as a witness and would produce evidence from the stewards who escorted the Match Officials after the match.
12. Mr Morgan stated that he could not, and would not, allow the record to stand that he used this expletive word.

Further Correspondence

The FA

13. Further to Mr Morgan’s letter of 11 December 2014, The FA made contacts with the four Match Officials via EMail.
14. The FA then sent a letter to Mr Morgan, dated 16 December 2014, and enclosing following further evidence that would also form part of The FA’s case:

- 14.1. EMail correspondence between Mr Tarik Shamel, of The FA's Regulation Department, and Mr Jones, Match Referee, dated 15 December 2014;
 - 14.2. EMail correspondence between Mr Shamel and Mr Scott, Fourth Official, dated 15 – 16 December 2014;
 - 14.3. EMail correspondence between Mr Shamel and Mr West, Assistant Referee, dated 15 – 16 December 2014; and
 - 14.4. EMail correspondence between Mr Shamel and Mr Scholes, Assistant Referee, dated 15 – 16 December 2014.
15. Mr Morgan was advised that if he wished to provide further evidence or submissions by way of response to the above statements (in para 14.1 to 14.4 inclusive) then to do so by no later than 19 December 2014.

Mr Morgan

16. Mr Morgan submitted a letter, dated 19 December 2014, with his observations to the additional information from the four Match Officials.
17. Mr Morgan also submitted the following statements in support of his rebuttal to the alleged use of this one expletive word:
- 17.1. Statement from Mr Keith Lockley, the Club's Tunnel Manager, undated;
 - 17.2. Statement from Mr Barry Dunn, the Club's Tunnel Security, via EMail dated 17 December 2014;
 - 17.3. Statement from Mr Carl Hentsch, the Club's Tunnel Security, via EMail dated 16 December 2014; and
 - 17.4. Statement from Mr Sam Bagnall, the Club Photographer, undated.
18. With the above submissions and further comments in response to the Charge, maintaining his denial of the one expletive word he was alleged to have used, Mr Morgan advised The FA that he would not be seeking a personal hearing to answer to the Charge.

The FA Rule

19. The FA Rule E3 states:

“(1) A participant shall at all times act in the best interest of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.

...”

The Regulatory Commission

20. The following members were appointed to the Regulatory Commission (“the Commission”, “We/us”) to hear this case:

Mr Thura KT Win, JP (Chairman);

Mr Roger Pawley;

Mr Brain Talbot; and

Mr Robert Marsh, The FA Judicial Services Manager, acted as Secretary to the Commission.

The Hearing

21. We convened at 2pm on 23 December 2014 by video-conference for this Non-Personal / Paper Hearing (“the Hearing”).

22. We had read the bundle of documents prior to the Hearing.

23. Mr Jones, Match Referee, reported the following (we quote the relevant text):

“At the conclusion of the game as my Assistants and I were leaving the field of play we were met by [the] Chairman of Wolverhampton Wanderers who was very irate. He shouted ‘You are a disgrace referee, the worst we have ever had. Cunt!’...”

24. Mr Scott, Fourth Official, reported the following (we quote the relevant text):

“After the end of the match I was standing at the entrance to the tunnel. A man later

identified to me as the Wolverhampton Wanderers chairman, Steve Morgan, walked towards the referee and his assistants. As they walked past him, he said 'You're a disgrace referee, the worst we've ever had. Cunt!' ..."

25. Mr West, Assistant Referee, reported the following (we quote):

"At the end of the game whilst leaving the field of play with the referee and other assistant referee we were confronted by a male I now know to be Mr Morgan, the Chairman of Wolverhampton Wanderers, who shouted in an aggressive and angry manner 'You are a disgrace referee, the worst we've ever had'. I was then distracted by a second incident which is reported in a separate report."

26. Mr Scholes, Assistant Referee, reported the following (we quote the relevant text):

"As we left the field of play we were approached by the Wolverhampton Wanderers FC Chairman, Mr Morgan, who shouted 'You're a disgrace referee, the worst we've ever had'. At this point I was distracted by a plastic drinks bottle landing near my feet..."

27. Mr Jones added that, once in the changing room, he informed Mr Keith Lockley, the Club's Tunnel Manager, that he would be reporting the incident of Mr Morgan and stated that Mr Lockley *"apologised for his Chairman's conduct"*. Mr Scott and Mr Scholes also included witnessing this in their Reports.

28. Mr Curson, the Assessor, reported he saw Mr Morgan approached the Match Officials and made *"...some form of verbal communication towards them..."* as they left the field of play after the final whistle. However, from Mr Curson's position in the Directors' Box in the stand, he could not confirm what comments were made.

29. We viewed the video clip in support of the Charge multiple times. The video was taken from the angle from above/stand and showed: three Match Officials being escorted off the pitch by three stewards and met by another steward at the touchline; Mr Morgan arriving at the pitch side from the tunnel; he approached the group of three Match Officials and four stewards; he was making some comments to the Referee and walked with the group towards the

- tunnel; many people were in the vicinity, including a photographer; an object came towards the group and one Assistant Referee reacting to it; the Fourth Official was near the tunnel entrance and joined the group as they reached him.
30. The video clip did not include sound, so we could not say what was being said.
 31. In his first letter with the response to the Charge, Mr Morgan stated (we quote the relevant text):
 32. *“Although I admit the charge, I categorically deny using the expletive that the reports of two of the four match officials state. Quite frankly I was incensed when I read the officials’ statements intimating that I had used this expletive. It is not a word I have ever used or would ever use in this or any other situation; it is simply not part of my vocabulary.*
 33. *The statements of the four officials are virtually identical; however the two assistant referees did not include this offensive word. Given that all four officials were together, if I had used such a word clearly all four would have heard it. The referee was coming under considerable abuse from the crowd as he walked towards the tunnel and undoubtedly there were many, many expletives being used. The crowd were incensed and I can only conclude that the referee and the fourth official heard this word from a third party, mistakenly thinking it was me.*
 34. *I am a father of five children, Chairman of a major FTSE 250 plc, the owner and Chairman of Wolves, the founder and Chairman of one of the largest charities in the north of England, all of which carry huge public responsibility. My reputation is of paramount importance to me and I cannot and will not allow this accusation of having used such an offensive word to go unchallenged.*
 35. *Should the Commission not accept my word that I did not and would never use such an expletive, then I must change my position to denying the charge, in which case I would ask for a personal hearing and would demand that Mike Jones be present at such a hearing. If such a hearing is necessary I will produce evidence from the Wolves stewards who were escorting the referee at the time. I am sorry to labour the point, but I really cannot and will not allow the record to stand that I used this expletive word.*

36. *Nevertheless, I accept completely that my conduct on the day was unbecoming of any senior Club official but particularly the chairman. Indeed, I issued a personal apology to the referee via the Wolves website the following day because I immediately realised that I should not have remonstrated with him at the end of the match.*
37. *... The referee had, in my opinion, got a number of important, match changing decisions badly wrong... The crowd were totally incensed by a considerable number of his decisions – in fact in all my time of watching football, spanning over 50 years, I cannot recall a situation where the crowd were more angered and indeed incensed by a referee, particularly as the game was played in relatively good spirit between the two teams.*
38. *Regardless of this, however, I accept that although I did not go onto the pitch, I should not have gone pitch side at the end of the match to express my feelings about the referee's performance, nor in the manner that I did. I can assure you that this will not happen again.*
39. *In mitigation, I would respectfully ask that you do not consider Saturday's lapse, for which I have, and do apologise, in isolation. This is the first time I have ever been charged with misconduct and would hope the commendable work that has been achieved in my time at the Club is also taken into consideration..."*
40. In response to Mr Morgan's denial of using the expletive word, Mr Tarik Shamel, of The FA's Regulation Department, sent individual E-mails on 15 December 2014 to the four Match Officials for their further observations.
41. Mr Jones replied on the same day stating that (we quote the relevant text):
"... I can confirm that I am extremely confident that all of the words reported to the FA were made by Mr Morgan... I believe the final word of 'Cunt' was shouted to me after I had passed Mr Morgan... The word used was in a dismissive manner..."
42. Mr Scott replied on the following day stating that (we quote):
"I can confirm that I was facing the field of play and other officials as they walked towards the tunnel. Mr Morgan walked past me briskly and appeared angry.

I was looking towards Mr Morgan when he made his comments, as previously reported. This included the word 'cunt', said in isolation at the end."

43. Mr West replied on the following day stating that (we quote the relevant text):

"... I cannot confirm whether [Mr Morgan] did or did not use the word 'cunt'. What I can confirm is that I did not hear him say it. I heard the first comment however my attention was drawn by a bottle being thrown from the crowd which struck me on the leg through my flag..."

44. Mr Scholes replied the following day stating that (we quote the relevant text):

"... having heard Mr Morgan shout 'You're a disgrace referee, the worst we've ever had', I was distracted by a plastic drinks bottle landing near my feet. As per my report I can therefore confirm that I didn't hear anything else..."

45. The FA then enclosed above responses as additional evidence in a subsequent letter to Mr Morgan and offered Mr Morgan an opportunity to respond, if he so wished.

46. In his second letter, replying to the additional evidence, Mr Morgan stated (we quote the relevant text):

47. *"... Mr Jones and Mr Scott are wrong. I did not use that word, I have never used that word – it is simply not in my vocabulary. The crowd were incensed by the poor performance of the referee and his decision making, which had turned the course of the match. Chants and expletives were coming from every section of the crowd. Inexcusably, one fan threw a plastic water bottle at the referee. The 'c' word could easily have come from a fan or fans who were also relatively close and I must repeat that there was not a Wolves fan in the ground who wasn't angry at the referee and most of them were venting their anger.*

48. *Three members of the Wolves' tunnel stewards were first hand, close witnesses of the incident with Mr Jones. They have been specifically asked – not by me but by club management – whether any of them heard me use the word. None said they did and I submit, as additional evidence, their statements. They were immediately between me*

- and the officials. I also attach a further statement from the club's official photographer, who was also very close to the incident.*
49. *Two of the officials, the three stewards who were between me and the referee, the Club's official photographer who was situated right next to where I was stood and of course myself, have all stated that I had not used, or they had not heard me use the 'c' word. Two people, i.e. Mr Mike Jones and Mr Graham Scott, alleged that I did use the 'c' word. Mr Jones, however, stated that he heard it after he had passed me. I must repeat that expletives, boos and chants were coming from every direction – he may have heard the 'c' word, but did not hear it from me.*
50. *Obviously, we need to conclude this matter and move on. I have accepted a misconduct charge but I want it to be heard on the basis that I did not use the 'c' word. Irrespective of how it would affect matters at your end, it is important to me and my reputation that my categorical denial is accepted.*
51. *I accept I was wrong to do what I did and have apologised publically. However, in mitigation, I respectfully ask that the Commission, when reaching its decision, also takes into consideration the case of Southend United Chairman, Ron Martin, who telephoned me when this incident became public. A few seasons ago, he was charged for going onto the pitch (please note I did not) to remonstrate with a referee after a controversial match involving his team against Colchester. I make reference to this only to inform the Commission that he told me he received a 'warning' over his future conduct. Unfortunately, I'm not the first Chairman to confront a referee. However, I will certainly not be doing it again.*
52. *In summary, I accept the charge against me, I apologised publically to the referee within 24 hours on the club's website, I vehemently deny swearing at the referee and would ask the Commission to take into account not only my evidence, but that two of the assistant referees, the three clubs stewards and the club's official photographer. I will not be seeking a personal hearing."*
53. In a statement submitted by Mr Lockley, he stated (we quote the relevant text):
- "I was escorting the match officials from the pitch after the game. Mr Morgan came*

from the tunnel area, and he started shouting at the officials. But at no time did I hear him swear...”

54. In a statement submitted by Mr Dunn, he stated (we quote the relevant text):

“... I was in position on the pitch to escort the match officials from the pitch to the dressing room. As we approached the tunnel the club chairman was pitch side and I heard him say ‘You[’re] a disgrace referee. You are the worst we have ever had.’ I then ushered the chairman away from the referee and continued to escort the referee into the tunnel and to the dressing room.

During the incident I did not hear the chairman use any bad language.”

55. In a statement submitted by Mr Hentsch, he stated (we quote the relevant text):

“... when escorting the officials from the field of play on the Saturday 6th December the only thing heard Mr Steve Morgan say to the referee was, that was a disgrace referee, we escorted the officials to [their] changing room as per normal.”

56. In a statement submitted by Mr Bagnall, he stated (we quote the relevant text):

“... At full time as the Match officials left the field of play I made my way to the pitch and tunnel area to take photographs, due to the fact that the game had been extremely controversial due to several refereeing decisions.

I decided that I would take the photographs of the Match officials as they left the pitch, also close by was Steve Morgan the Chairman of Wolverhampton Wanderers. As I was taking photographs Mr Morgan passed comment and his view of the referee’s performance but at no time did I hear Mr Morgan call any match official a ‘Cunt’.”

57. This concluded the relevant submissions and evidence received in this case for our consideration.

The Burden of Proof

58. The applicable stand of proof required for this case is the civil standard of the balance of probability.

Our Findings

59. We noted that Mr Morgan had made a partial admission to the Charge on a basis and disputed that he used the word “cunt” (“disputed fact”), and elected a Non-Personal Hearing.
60. Mr Morgan was not denying, and indeed accepted as his “basis of plea”, the remainder of the Charge that included him going down to the pitch side at the end of the match and remonstrated with the Referee, during which he had said, *“You are a disgrace Referee. The worst we have ever had”*.
61. However, Mr Morgan’s partial admission on the “basis of plea” submitted was not acceptable for us to proceed, as the Charge included the “disputed fact” and it could also make a material difference to the sanction we would impose.
62. We, therefore, considered the evidence before us to make a Finding of Fact, based on the burden of proof required, on the “disputed fact” of whether Mr Morgan was more likely than not to have said the word “cunt” as alleged.
63. In considering this, we recollected the following relevant evidence:
64. Mr Jones included the word in his Report (in para 23). He added in his follow up EMail, in additional evidence, that he was *“extremely confident”* that all of the words he reported were made by Mr Morgan and he believed that *“the final word of ‘Cunt’ was shouted to me after I had passed Mr Morgan... in a dismissive manner”* (in para 41);
65. Mr Scott included the word in his Report (in para 24). He added in his follow up EMail, in additional evidence, that he *“was facing the field of play and other officials as they walked towards the tunnel. Mr Morgan walked past me briskly and appeared angry. I was looking towards Mr Morgan when he made his comments, as previously reported. This included the word ‘cunt’, said in isolation at the end”* (in para 42);
66. Both Mr West and Mr Scholes did not include the word in their Reports (in para 25 and 26). And they both were distracted by the plastic water bottle being thrown from the crowd. They added in their follow up E-mails, in additional

- evidence, that Mr West *“did not hear [Mr Morgan] say it”* (in para 43) and Mr Scholes *“didn’t hear anything else”* (in para 44);
67. Mr Morgan vehemently denied saying the word (in para 32, 47, 49, 50 and 52).
 68. However, Mr Morgan stated that the word could have said by someone else in the ground (in para 33, 47 and 49) as many of the Wolves fans were incensed by some of the refereeing decisions during the match;
 69. Mr Lockley stated that *“[Mr Morgan] started shouting at the officials. But at no time did I hear him swear”* (in para 53);
 70. Mr Dunn quoted the comments he heard but added, *“During the incident I did not hear the chairman use any bad language”* (in para 54).
 71. Mr Hentsch stated that he only heard Mr Morgan to say, *“that was a disgrace referee”* (in para 55);
 72. Mr Bagnall stated, *“Mr Morgan passed comment and his view of the referee’s performance but at no time did I hear Mr Morgan call any match official a ‘Cunt’”* (in para 56); and
 73. We also reviewed the video clip, which showed many people in the vicinity as well as positions and movements of various key people (in para 29).
 74. Based on the evidence above, we unanimous agreed that the word “cunt” was said by someone, and heard and reported by Mr Jones and Mr Scott.
 75. In considering whether Mr Morgan was more likely than not to have said the word “cunt”, we made the following assessments:
 76. Mr Jones stated that *“the final word of ‘Cunt’ was shouted to me after I had passed Mr Morgan”* so he would not have seen it was Mr Morgan who had said it;
 77. Mr Scott stated that he was looking at Mr Morgan when Mr Morgan had said the accepted comments and that it *“included the word ‘cunt’, said in isolation at the end”*, which would indicate that it was not part of the accepted comments;

78. However, the evidence from both Mr West and Mr Scholes was that a plastic water bottle was thrown (agreed by Mr Morgan, in para 47) and distracted them at the end of Mr Morgan’s accepted comments and, therefore, they did not hear this additional word;
79. We saw from the video clip that an object – a plastic water bottle – landed in front of the group and bounced up towards Mr West’s feet, which resulted in a clear reaction from Mr West. Whilst Mr Scott was not in full view in the video clip at that time and he was “*facing the field of play and other officials as they walked towards the tunnel*” (as he had stated in para 42), it appeared that his attention could have been drawn to the object landing and looked at Mr West’s obvious reaction. If he did, as it might have appeared, then he could have heard the word but not seen it was Mr Morgan who had said it;
80. Mr Morgan did not use any expletives in the reported, and accepted, comments despite being reportedly “*very irate*” (Mr Jones, in para 23) and “*angry*” (Mr Scott, in para 42), and therefore was he more, or less, likely to have used the disputed word?;
81. The Club stewards, who were closer to Mr Morgan than Mr Scott, and the photographer did not witness Mr Morgan using the word; and
82. Mr Morgan vehemently denied saying the word, whilst accepting his remaining behaviour and comments, and stated that it is not in his vocabulary.
83. Based on the above paragraphs 76 to 82 inclusive and on the burden of proof required, we decided by a majority that Mr Morgan did not say the word “cunt”.

The Decision

84. Based on Our Findings, we proceeded to consider the appropriate sanction to impose, without the alleged expletive word being associated to Mr Morgan, and agreed to give Mr Morgan due credit for his “*Guilty*” plea for the elements of the Charge that he had admitted.

85. Therefore, the admitted behaviour and language of Mr Morgan at the end of the match was improper.
86. We considered it an aggravating factor that Mr Morgan, being the Chairman of the Club and unlike Technical Area occupants who would normally be already at the pitch side, made a conscious visit to the pitch side to remonstrate.
87. We also considered it an aggravating factor that Mr Morgan is the Chairman of the Club and should be setting a good example to others.

Previous Disciplinary Record

88. Mr Marsh informed us that Mr Morgan has no previous disciplinary record.

Mitigation

89. In addition to above, we also noted from Mr Morgan's submissions that he had realised his conduct on the day was unbecoming, should not have gone to the pitch side and remonstrated with the Referee, and he issued a personal apology publically to the Referee on the Club's website within 24 hours.

The Sanction

90. As Mr Morgan had raised a similar case of Southend United Chairman a few Seasons ago as a comparable sanction for us to consider, we enquired with Mr Marsh on the nature and sanction of that case. Mr Marsh told us that there is no such case on the system.
91. Mr Marsh advised us that, as a form of guideline, the current level of sanction for a Standard case of an admitted FA Rule E3 charge for the Technical Area occupants in the Football League Championship is a fine of £2,000 (£3,000 for a denial and if subsequently proven). If abusive and/or insulting language were found to be in the conduct then it would attract a sporting sanction of at least one-match ban and as the Chairman of the Club who is meant to sit in the stand a touchline ban would have been inappropriate and it would almost certainly have warranted a stadium ban.

92. As we had decided by a majority that Mr Morgan did not use of an expletive word, we decided against a sporting sanction and would only be imposing a financial penalty.
93. In considering the appropriate financial penalty in this case, we gave regard to the Standard Penalty for a Technical Area occupant admitting to FA Rule E3 charge (in para 91) and noted that this case was designated as a Non Standard Case (in para 6), due credit for Mr Morgan’s admission (in para 84) and his previous good record (in para 88), as well as the aggravating (in para 86 and 87) and mitigating (in para 89) factors.
94. We, therefore, ordered that Mr Morgan be:
- 94.1. fined the sum of £2,500 (two thousand and five hundred pounds); and
 - 94.2. warned as to his future conduct.
95. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Thura KT Win, JP (Chairman)

Roger Pawley

Brian Talbot

23 December 2014