

Football Association Independent Regulatory Commission

(the 'Commission')

**in the matter of a FA Rule E3 charge for misconduct brought
by The Football Association against Sergio Aguero of
Manchester City FC.**

Regulatory Commission Decision

1. These are the written reasons for a decision made by an Independent Regulatory Commission that was convened on Friday 2nd September 2016 (the 'Hearing').
2. The Commission members were Mr. S. Ripley (Chairman), Mr. B. Talbot and Mr. A. Knight
3. Mr. P. McCormack of the FA Judicial Services Department acted as Secretary to the Regulatory Commission.
4. Mr. Aguero was charged by The FA with misconduct for breaching FA Rule E3 for his actions during an incident that took place in the 76th minute of the Manchester City FC v West Ham United FC, Premier League fixture on 28th August 2016. It was alleged that Mr. Aguero's actions during the incident constituted violent conduct.

5. The Incident in question fell within FA Law 12 as it was not seen by the Match Officials but was caught on video (see Schedule A pg. 356-359 of The FA Handbook Season 2016-2017).
6. Mr. Aguero denied the charge in the FA Disciplinary Proceedings: Reply Form which was signed and dated 1st September 2016.
7. The following is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or submission, should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.
8. Prior to the Hearing the Commission members were provided with the following from The FA:
 - a. Email correspondence between Mr. A. Mariner, the Match Referee, and Mr. R. Marsh of The FA's Regulation Department, dated 30th August 2016.
 - b. Email correspondence between Mr. R. Marsh of The FA's Regulation Department and PGMOL Senior Referee Coaches, dated 30th August 2016; and
 - c. A video clip of the incident.
9. In addition to the above the Commission members received submissions from Manchester City FC's General Counsel, Simon Cliff,

dated 1st September 2016, which included a letter signed by Mr. Aguero and a detailed response to the charge.

10. In the above mentioned Email, Mr. A. Mariner stated that he *"...did not see the full extent of the incident and in particular where Sergio Aguero's hand had finished up in the challenge, which clearly catches Winston Reid in the throat region. I can also confirm that no other match official had seen this incident"*.

11. As such, as per FA procedure, the incident was referred to three PGMOL Senior Referee Coaches, who all stated that in their opinion, having viewed the video footage, the actions of Mr. Aguero warranted a red card for violent conduct.

12. Manchester City submitted that (i) Mr Aguero's actions did not constitute violent conduct and (ii) in the alternative, should the Commission find the charge proven, the standard punishment would be clearly excessive and should be decreased.

13. The Commission considered the arguments put forward by Manchester City FC but unanimously felt that the video evidence before them was conclusive.

14. All three Commission members felt that in their opinion, having been knocked off balance by Winston Reid, Mr. Aguero had thrown out his left arm in an aggressive manner that was excessive in force and brutal, which clearly endangered the safety of Mr. Reid. Indeed, even though

the point of Mr. Agüero's elbow did not connect with Mr. Reid, his flailing forearm did and this contact between forearm and throat/neck clearly hurt Mr. Reid.

15. The Commission members noted the clenched fist of Mr. Agüero as he threw his left elbow towards Mr. Reid, the upward angle of the movement and the force of the movement.

16. The Commission was in no doubt that the actions of Mr. Agüero constituted violent conduct and as such the charge against him was found proven.

17. The Commission then turned its attention to the second part of Manchester City's submissions which argued that if the charge was found proven then the imposition of the standard punishment (three match suspension) would be clearly excessive.

18. In order to find the standard punishment excessive the Commission would have to find that the incident in question contained "*truly exceptional*" circumstances of some nature that justified a reduction in the sanction. The Commission referred to the criteria within Schedule A(d)(i) – Decreasing the Standard Punishment (pg. 358 of The FA Handbook Season 2016-2017).

19. The Commission could not see anything "*truly exceptional*" about the incident. The incident was simply a 'one v one' tussle for the ball, such that is seen many times during any football match, whereby one of the players had used excessive force and brutality against the other.

20. As such, the Commission members unanimously agreed that the charge against Mr. Aguero was proven and that the standard sanction of a three match ban ought to apply.

21. This decision is final and binding and is not subject to appeal.

Stuart Ripley

Regulatory Commission Chairman

4th September 2016