

IN THE MATTER OF A FOOTBALL ASSOCIATION  
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR. IMRAN LOUZA

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WRITTEN REASONS AND DECISION OF THE INDEPENDENT  
REGULATORY COMMISSION FOLLOWING THE HEARING ON 21  
OCTOBER 2022

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1. These are the written reasons for a decision made by an Independent Regulatory Commission (“the Commission”) which sat via video conference on 21 October 2022.
2. The Commission members were Simon Parry, (Chairman, and Independent Legal Panel Member), Faye White M.B.E (Independent Football Panel Member) and Marvin Robinson (Independent Football Panel Member).
3. Mr. Michael O’ Connor of the FA Judicial Services Department, acted as Secretary to the Commission.
4. By letter dated 10 October 2022 the FA charged Imran Louza (“IL”) with a breach of FA Rule E1.1, alleging that in or around the 90+17<sup>th</sup> minute of the game he spat at Ryan Manning (“RM”). The matter was charged as an incident of misconduct governed by Fast Track 2 of the FA Disciplinary Regulations. Further, the FA designated it as a Non-Standard Case due to the seriousness of the alleged offence and/or the unusual nature of the reported behaviour.
5. The FA relied, inter alia, upon the following evidence:
  - a) The Report of the Match Referee, Mr T. Robinson, dated 6 October 2022;
  - b) The Report of the Fourth Official, Mr K. Stroud, dated 6 October 2022;
  - c) The statement of Mr R. Manning, dated 7 October 2022;

- d) Email correspondence between Mr T. Robinson, Match Referee and Mr J. Gillett of The FA, dated 7-8 October 2022;
  - e) Email correspondence between Mr R. Hyde, Assistant Referee and Mr J. Gillett of The FA, dated 7-9 October 2022;
  - f) A still image; and
  - g) Three video clips.
6. By written reply dated 13 October 2022 IL denied the Charge and requested a non-personal hearing. He provided a witness statement dated 13 October 2022.
7. The Commission was greatly assisted by the written submissions of Mr Nick De Marco KC on behalf of IL dated 13 October 2022, the written submissions in response on behalf of The FA dated 17 October 2022, and additional written submissions in response from Mr De Marco dated 20 October 2022. We thank both parties for their careful and helpful submissions.
8. 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 account when the members determined the matter. For the avoidance of doubt, the Commission carefully considered all the evidence and materials provided to it.

### FA RULE E1.1

9. FA Rule E1 provides that:

“The Association may act against a Participant in respect of any Misconduct, which is defined as being a breach of the following:

E1.1 the Laws of the Game.

10. Law 12 of the FIFA Laws of the Game provides that spitting at an opponent is a sending-off offence.

11. A mandatory 6-match suspension is applicable to any Participant who is found guilty or admits a charge of spitting.

### FA DISCIPLINARY REGULATIONS (FAST TRACK 2)

12. An issue arose between the parties as to whether the Participant had been correctly charged under Fast Track 2, or whether in fact this case was governed by Fast Track 1. Part E of the FA Disciplinary Regulations sets out the Fast Track Regulations. The purpose of Fast Track Regulations is to enable charges falling within them to be dealt with in a timely and efficient manner. Table 10 sets out the incidents of Misconduct covered by the various Fast Tracks.

13. On behalf of the Participant Mr De Marco submits that the FA have wrongly charged IL with Misconduct falling within Fast Track 2 when the appropriate Fast Track was Fast Track 1. In response the FA submits that it has a discretion as to which Fast Track to use, and that, in the circumstances of this particular case, Fast Track 2 applies.

14. Table 10 indicates that Fast Track 1 covers, amongst others, Incidents of Misconduct occurring on or around the field of play within Law 12 of the Laws of the Game which were not seen and dealt with by Match Officials but were caught on video, including spitting.
15. In contrast, Fast Track 2 covers, amongst others, Incidents of Misconduct reported to The Association, other than a breach of the Laws of the Game, which occurred on or around the field of play before, during or after a game. Examples include but are not limited to “Not Seen Incidents (as set out in Fast Track 1) but where there is no video of the incident.
16. For reasons that will become apparent in the Commission’s assessment of the evidence and facts of this case that follows, it is not necessary for us to determine whether this case was correctly charged or otherwise. Whether this case falls into Fast Track 1 or Fast Track 2 makes no difference to our findings.

### THE EVIDENCE

17. The events that give rise to the Charge occurred on 5 October 2022 towards the end of the English Football League Championship fixture between Watford FC and Swansea City AFC.
18. It is common ground that shortly before the incident in question IL had fouled RM and received a yellow card. IL asserts that RM was very unhappy with the challenge and was not going to treat the incident as being over. IL believed there would be some form of retribution or retaliation exacted.

19. We now come to the incident itself. The Commission had the benefit of three video clips. During our deliberations we were able to watch the footage a number of times. Two of the clips were helpful, but only to a limited degree, as they captured the incident. A third clip assisted us with the aftermath. Our findings of fact from the video footage, alone, are that as IL is walking towards the middle of the pitch during a stoppage in play, RM walks across IL's path for no apparent reason and barges into IL. The two men engage briefly with each other before RM looks at his shirt before running away to the Referee. The video clip of the aftermath shows RM reporting to the Referee that he has been spat at and he points out the right shoulder area of his shirt to the Watford number 4. We also had a still image of RM pointing to the right shoulder of his shirt to the Referee. That is the sum total of what we are able to discern from the visual evidence.
20. The relevant part of the Referee's Report states, "*In the 17<sup>th</sup> minute of additional time I was approached by Ryan Manning (Swansea City No3) and he informed me that the WAT No 6 (Imran Louza) had spat at him in an off the ball incident*". His Report also refers to events in his changing room where the matter was formally reported, as he had requested on the field of play. He states, "*Ryan Manning informed us that there was a coming together off the ball between himself and the WAT No6 when he alleged that the WAT No6 spat at him which then landed on his right shoulder*". The Fourth Official, Mr Stroud, took notes of the reports in the changing room. Once the allegation had been made, IL was spoken to in the Referee's changing room, and he denied the allegation.

21. The relevant part of RM's statement records that *"In the 107th minute of the fixture as I was walking away from a group of players, I came into contact with Watford number 6, Imran Louza. This was during a stoppage in play and words were exchanged between us as we continued to walk towards the middle of the pitch. The exchange was in relation to a foul he had committed on myself during the 102nd minute of the fixture, for which he received a yellow card. Following the exchange, Mr Louza then spat at me, leaving a visible mark on the right shoulder of my playing shirt. In order not to escalate the situation, I immediately ran over to the Referee and Assistant Referee and informed them of the incident and showed them the clear mark on my shirt."*
22. As a result of RM's statement further enquiries were undertaken by The FA with the Referee and the Assistant Referee, Mr Hyde. By email reply dated 8 October 2022 the Referee stated, *"I can confirm that Ryan Manning made me aware of the alleged incident before restart (90+18) and he also made me aware of the spit on his shirt at this occasion..."*. Mr Hyde's reply via email dated 9 October merely states that *"I was aware that Ryan Manning (Swansea 3) brought something to the attention of the referee in the latter part of the game..."*.

### BURDEN AND STANDARD OF PROOF

23. Both parties agree that the Commission is to apply the flexible civil standard of proof, namely the balance of probabilities. Mr De Marco reminded us of the case of *The FA v Peter Beardsley*, 18 September 2019, where Lord Dyson (Chair) said at para 16:

*“The civil standard of the balance of probabilities is applied flexibly: see, for example R (N) v Mental Health Review Tribunal (Northern Regions) and Others [2006] QB 468 at paras 62 to 64. Thus, as Richards LJ said at para 62, the more serious the allegation or the more serious the consequences if the allegation is proved, the stronger must be the evidence before a court will find the allegation proved on the balance of probabilities. In our view, this flexibility is reflected in the language of Regulation 24. The words “clear and convincing evidence” serve the purpose of requiring evidence to have that quality before the presumption is rebutted on the balance of probabilities. These are ordinary words. If we are not persuaded that the evidence relied on by Mr Beardsley is clear and convincing, then he will not have rebutted the presumption on the balance of probabilities.”.*

24. Therefore, there must be clear, cogent and convincing evidence presented before we could consider that The FA has proved the Charge. We note that the automatic sanction of a 6-match suspension for an offence of spitting means that this is a particularly serious allegation and thus the strength of the evidence to satisfy this Charge is at a much higher threshold.

#### THE PARTICIPANT’S SUBMISSIONS

25. We summarise those features of the evidence that Mr De Marco highlights in the first set of submissions on behalf of IL as follows:
- a) IL’s belief that RM was trying to get him sent off, supported by the absence of an immediate reaction of anger or surprise from RM, rather RM runs straight to the Referee.
  - b) The video evidence being entirely inconclusive;
  - c) The lack of any visual evidence that shows spit on RM’s shirt;



- d) An absence of corroborative statements in relation to the spitting itself or spit on the shirt, in particular the absence of any evidence (or reaction on the video footage) of the Swansea City No 6 who was close to, and appears to be looking at, the incident at some point;
- e) The absence of evidence from the Match Officials save for the fact that the allegation was reported;
- f) The lack of further investigation by the Referee whilst on the field of play;

26. Mr De Marco argues that at its highest this is a case of one person's word against another's. He submits that there is insufficient evidence to support the Charge and not the strong, clear or compelling evidence required for a Charge of this severity. He submits that there are circumstances in which it is possible for spit to end up on a player's shirt other than by way of deliberate spitting.

27. We were referred to the decision in *The FA v Jay Rodriguez*, 13 April 2018, where a Regulatory Commission chaired by the Judicial Panel Chairman, Christopher Quinlan KC, dismissed a Charge alleging that Rodriguez had racially abused another player. That Commission was driven to the following conclusion at para 57 of the Written Reasons:

*“Ultimately, after much deliberation we were left in the position where the case distilled to the evidence of each player. We could not say that any of the other evidence or competing arguments lead us to prefer one over the other. When the burden and standard of proof is applied, we could not properly say we were satisfied that the Player probably spoke the offending words.”*

28. Mr De Marco's second set of submissions respond to The FA's submissions (see below). They deal principally with what we term the jurisdiction point to which we have already referred in paragraphs 12-16 above. The submissions do draw a distinction between the case of *The FA v Jefferson Lerma*, 26 May 2021 upon which The FA relies and the case of *Rodriguez* which, he submits, is closer to the situation in this case than the case of *Lerma*. It is right to say that in *Lerma* the Regulatory Commission was dealing with video evidence of some quality from which the Commission was able to draw conclusions that supported the evidence of Mr Lerma. Mr De Marco maintains his submission that there is a lack of cogent evidence.

#### THE FA's SUBMISSIONS

29. In The FA's written submissions in response, they argue that the evidence before us is cogent. They highlight the proximity of the two players, the unimpeded view of IL's face that RM had, RM's immediate response to the spit and running over to the Referee to report it and, the Referee noting that he was made aware of the spit on RM's shirt.
30. They submit, in answer to Mr De Marco's point about the Swansea No 6, that it is potentially dangerous to derive meaningful conclusions from another player's (assumed) response. They submit that RM was to be commended for a "text-book response" to having been spat at. In response to the lack of investigation by the Referee point, The FA identify that Mr

Robinson adopted the correct approach to dealing with an unseen incident. We pause at this point to note that we accept that particular submission. The Referee dealt with the matter in an appropriate, calm and professional manner as he is trained to do. His response does not provide any support for the Participant's argument. The FA goes on to assert that there is no evidence, rather mere conjecture or speculation, to suggest that RM was seeking to mislead the Match officials or a subsequent Regulatory Commission.

### DECISION

31. In determining liability, the Commission has to consider the totality of the evidence. We have to be satisfied that deliberate spitting took place. On one hand we have RM's account of IL spitting at him which he promptly reported to the Referee. On the other hand, we have IL's denial of spitting which has been consistent from the outset. We have already set out our conclusions on what can be seen from the video footage. We agree with Mr De Marco that The FA's submission that on the video the allegation of spitting cannot clearly be made out, is over-egging the evidence. It is clear that the video does not show any actual spitting by IL.
32. We have considered the competing submissions about the reactions or otherwise of the players. We do not find The FA's submission about the dangers of deriving meaningful conclusions from players' responses helpful or consistent. On one hand they urge us not to draw any conclusion from

the absence of any reaction from RM's teammate in close proximity, whilst also inviting us to treat RM's reaction of running straight to the Referee to make his complaint as evidence that supports his account. In our judgment, the reaction of RM at the point that he is alleged to have been spat on is nevertheless important. From the footage we can see that he briefly looks down at his shirt but there is no instant reaction of being repulsed or shock. The Commission has the benefit of two extremely experienced former professional football players in its composition. Drawing on our own common-sense and experiences of the game, it is surprising that RM did not react in such a way, given how rare, unusual and disgusting the act of spitting is. That absence of reaction is, in our view, potential support for IL's case that RM was seeking a way of getting him dismissed. We are fortified in that conclusion by the footage that shows the physical coming together of the two players was instigated, and unnecessarily so, by RM.

33. That finding, however, does not require us to make any judgment as to whether RM has deliberately concocted an allegation of spitting. Having viewed the footage as many times as we have in this case and, as is common ground between the two players, there was a verbal confrontation between them. It is entirely possible, and we cannot rule out as a possibility, that IL inadvertently spat on RM whilst delivering some verbal insult to him. In that scenario, it is entirely possible that RM has genuinely, but mistakenly believed that he was the victim of spitting.

34. The Commission also considers the evidence of the Referee important, as

potentially one of the few sources of independent evidence. We do not agree with Mr De Marco's submission that the Referee's use of the answer "Not Sure" in response to the Misconduct question on his Report Form is significant. The referee was entirely right to answer in that way as this was an unseen incident so he could not have been sure one way or the other whether misconduct had occurred. However, there is force in Mr De Marco's submission regarding the wording adopted by the Referee. We pay particular attention to what Mr Robinson said in answer to The FA's enquiry for further and better particulars of the incident. Crucially, in our judgment, he says that he was made "aware" of the spit on RM's shirt. It seems to us, that a professional referee operating at this level of football and familiar with the importance of clarity of report writing, would state clearly if he had seen any degree of spittle upon RM's shirt, rather than merely being made aware.

35. Ultimately, the evidence before us has not shifted from being one person's word against another's. There is no independent or corroborative evidence to assist the Commission on the competing cases of either party. Given that there is a necessity for clear, cogent and convincing evidence before a Charge of this seriousness is found proven, we are left in much the same position as the Regulatory Commission in the case of Rodriguez. We find that, on the evidence presented to us, there is simply insufficient convincing evidence that could lead us to the conclusion that we prefer one party's evidence to that of another. The burden of proving the case rests on The FA. In our judgment, the evidence is quite simply not sufficiently compelling to drive us to the

conclusion that The FA has discharged its burden of proving the case.  
Accordingly, we find the Charge not proven.

### CONCLUSION

36. For the reasons outlined above the Commission finds the Charge against  
Imran Louza not proven.

37. The decision is subject to any appeal as provided by the Regulations.

Simon Parry (Chairman)

Faye White M.B.E

Marvin Robinson

26 October 2022