

**IN THE MATTER OF
THE APPEAL BOARD OF THE FOOTBALL ASSOCIATION**

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TRISTAN SPENCER (APPELLANT)

-v-

NOTTINGHAMSHIRE FA (RESPONDENT)

(CASE REFERENCE 10206788M)

INTRODUCTION

1. These are written reasons for the findings of an FA Appeal Board which sat on Wednesday 23 February 2022. The Appeal Board met by Microsoft Teams to hear an appeal brought by the Appellant against a decision of a consolidated Disciplinary Commission (“the Commission”), sitting on behalf of the Respondent.
2. The Appeal Board, all independent members of the FA’s Appeal Panel, was Anthony Rock (Chair), Peter Powell and Shaun Turner.
3. John Edmunds (FA Judicial Services), acted as Secretary to the Appeal Board.
4. By necessity this is a summary document and is not intended to be a record of all submissions and evidence adduced. For the avoidance of doubt, the Board carefully considered all the evidence and submissions made in this case. Of note, following publication of this Appeal Board’s findings on Thursday 24 February 2022, it was the Respondent, who had not contested the Appeal nor the Out of Time Appeal Application, who requested full written reasons.
5. **Comment:** these same Appeal Board members also considered the appeal brought by Tristan’s brother, Anthony Spencer, back in January 2021. The relevance of that will become clear in these written findings.

BACKGROUND

6. On 26 May 2020, brothers Anthony and Tristan Spencer were involved in a physical confrontation/fracas with a group of unknown youths, one of whom was David Worley (the

Complainant). On 17 September 2020, the Respondent individually charged the brothers with a breach of FA Rule E3 - Assault, Participant on Participant. On 29th September 2020, the Commission considered the charges by correspondence and found the charges proven, imposing the same sanction on each brother; a 3-year suspension and £150 fine.

7. In November 2020, Anthony Spencer submitted an appeal against the Commission's findings. Following a lengthy appeal process, on 28th January 2021 an Appeal Board upheld Anthony Spencer's appeal and directed that the sanction was to be expunged. The Appeal Board also directed that the charge was to be relisted by the Respondent and was to be reheard by an Independent National Panel appointed by the FA.
8. In February 2021, a Regulatory Commission met to consider the re-listed charge against Anthony Spencer. In short, following a number of preliminary applications by Mr Spencer, the Regulatory Commission determined that the original issue was a 'non-football context' event and therefore the FA did not, at the time, have jurisdiction over Anthony Spencer. Also, the Respondent had failed to provide any evidence that David Worley was a Participant. The charge was expunged/dismissed and the Regulatory Commission directed that their findings were final and binding, and not open to further challenge.

OUT OF TIME APPEAL APPLICATION BY TRISTAN SPENCER

9. In January 2022, notwithstanding the rules relating to the appeal process (Non Fast Track), the Appellant, Tristan Spencer, submitted an Out of Time Appeal Application for consideration by the Chair of the Judicial Panel, Christopher Quinlan, QC. The Appellant argued that he had no desire to return to football following the original decision back in September 2020, and that he was disillusioned with the issues that emerged. He also wanted to see the outcome of his brother's case. Despite being 18 months out of time, on 2 February 2022 the Application was granted. The Chair of the Judicial Panel also observed that it would make sense for the Appellant's appeal to be heard by the same Appeal Board that met to consider his brother's appeal back in January 2021.

APPEAL GROUNDS/CASE PAPERS

10. In February 2022, the Appellant lodged an appeal on all four grounds available to him. The bundle of documents before the Appeal Board included the original papers for the consolidated personal hearings back in September 2020, detailed written reasons from those hearings, the Notice of Appeal and the related submission by the Respondent.

SUBMISSION OF NEW EVIDENCE - THE APPELLANT

11. As a preliminary matter, in accordance with Regulation 10 of the Disciplinary Regulations (FA Handbook 2021/2022, page 167), the Appeal Board considered an application by the Appellant to

submit new evidence. Following consideration of the written representation of both parties, the Appeal Board allowed this new evidence to be considered. For clarification, the new evidence comprised the Appeal Board's written reasons from the appeal involving Anthony Spencer in January 2021, and the findings of the FA Regulatory Commission which considered Anthony Spencer's re-hearing in February 2021.

FINDINGS OF THE APPEAL BOARD

12. The Appeal Board having considered submissions made on behalf of the Appellant and the Respondent make the following observations:
 - a. The charge against the Appellant arose out of the same facts as the charge against his brother, Anthony Spencer. A Regulatory Commission sitting in February 2021, determined that Anthony Spencer was incorrectly charged by the Respondent in September 2020, and expunged the charge against him. Fundamentally, they found that the Respondent had misinterpreted or failed to comply with the Rules and/or Regulations of the Association and should not have charged Anthony Spencer with Assault, Participant on Participant.
 - b. It is therefore logical, fair and consistent, that Tristan Spencer be afforded the same outcome as his brother.
13. The Appeal Board unanimously upheld the Appellant's appeal on the ground that the Respondent had failed to comply with the Rules and/or Regulations of the Association relevant to its decision. Having upheld the appeal on this ground, the Appeal Board did not go on to consider the remaining grounds of appeal.
14. The Appeal Board directed that:
 - a. The charge and any sanctions levied against the Appellant are to be expunged. Any fines paid by the Appellant in relation to the sanctions imposed are to be reimbursed by the Respondent.
 - b. There was no order made as to costs and the appeal fee is to be returned.
15. The Appeal Board's decision is final and binding on all parties.

Anthony Rock (Chair)

Peter Powell

Shaun Turner

Friday 25 February 2022