

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

~

AARON WILLIAMS (APPELLANT)

-v-

LONDON FA (RESPONDENT)

INTRODUCTION

1. These are written reasons for the findings of an FA Appeal Board which met via videoconference (Microsoft Teams) on Friday 30th June 2023. The Appeal Board considered an appeal brought by Aaron Williams (AW) of Dulwich Village FC against a decision of the London FA (LFA). The appellant asked for his case to be considered by correspondence.
2. The Appeal Board, all independent members of the FA's Appeal Panel, was Anthony Rock (Chair), Jonathan Rennie and Roy Schafer.
3. Conrad Gibbons, a member of the FA's Judicial Services Team, acted as Secretary to the Appeal Board.
4. This is the decision and written reasons of the Appeal Board. By necessity it 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 in the appeal case papers. Following notification of the Appeal Board's findings, published on Friday 30th June 2023, written reasons were requested by the Appellant's representative.

BACKGROUND FACTS

5. On 27th April 2023, LFA charged AW with two offences: Charge 1, FA Rule E3 - Improper Conduct (not including threatening and/or abusive language/behaviour) and Charge 2, FA Rule E3 - Improper Conduct (including violent conduct and threatening and/or abusive language/behaviour). Both charges relate to an U13's game ("the match/game") played between Dulwich Village FC and Southwark Dynamos on 2nd April 2023.
6. The basis of the charges is that AW, the Dulwich Village FC Manager, took his team off the field of play, causing the match to be abandoned. His actions/behaviour were deemed not to be acting in the best interests of the game and bringing the game into disrepute. Additionally, in an act of violent conduct and/or threatening and/or abusive language/behaviour, he laid his hands on and picked up an opposition youth player.

7. On 28th April 2023, AW pleaded guilty to both charges and requested that his case be considered by correspondence. On 9th May 2023, a Stand Alone Chair (“the Commission”), appointed by the FA, sat to consider the charges. This was a consolidated hearing during which the Commission also considered charges against both Clubs. The Club charges are not part of the appeal proceedings and are not referenced further in these written reasons.
8. Based on AW’s guilty pleas to both charges, and the undisputed evidence available to the Commission, both charges were found proven. In respect of Charge 1, AW was suspended for 2 matches and fined the sum of £20. In respect of the second charge, AW was suspended for 4 matches and fined £50. The Commission determined that the suspension for Charge 2 was to immediately follow the suspension imposed for Charge 1, i.e. the suspensions were to run consecutively and not concurrently. The Commission’s findings were published on 12th May 2023.

APPEAL GROUNDS/APPEAL BUNDLE

9. On 26th May 2023, AW appealed the Commission’s decision on the single ground that the Commission imposed a penalty, award, order or sanction that was excessive. The Notice of Appeal also included an application for a stay of the suspension imposed (later withdrawn by the Appellant’s representative) and an application, in accord with Regulation 10 of the FA Appeal Regulations (Non Fast Track), to present new evidence.

NEW EVIDENCE

10. As a preliminary issue, the Appeal Board first considered the application for submission of new evidence. The Appeal Board noted that much of the new evidence had indeed been included in the bundle of documents available to the Commission, and had been considered by the Commission in regard to mitigating/aggravating factors. That aside, the Appeal Board determined that there were no exceptional reasons why that evidence was not, or could not have been, presented at the original hearing. As such, the application to present new evidence was refused.

APPEAL BUNDLE

11. The Commission produced written reasons for their decisions, dated 9th May 2023, which were provided in the bundle of Appeal Board papers. The bundle included:
 - a. Results Letter and Written Reasons.
 - b. Notice of Appeal.
 - c. Response to Notice of Appeal.
 - d. Papers of First Instance.
 - e. Participant Offence History.

12. The Appeal Board papers are not replicated in these written reasons but were sent to all parties as part of the appeal process. If required, the papers can be obtained direct from LFA.

GROUND OF APPEAL SUBMISSIONS - IMPOSED A PENALTY, AWARD, ORDER OR SANCTION THAT WAS EXCESSIVE

13. In his Notice of Appeal, page 25 of the appeal papers, the Appellant accepted and took responsibility for his actions. However, he felt that the 6 match suspension was harsh. In summary, his appeal submission included the following observations/comments:

- a. The two charges arose from the same facts and so the imposition of a separate penalty for each charge had the effect of punishing him twice, which was unfair. The sanctions imposed should have run concurrently. It was disproportionate for them to run consecutively.
- b. He was always acting entirely to protect the safety and welfare of the opposition player and his own team and, in his view, was always acting within the '*best interests of the game*'.
- c. The Commission failed to take account of and apply due weight to significant mitigating factors. Specifically, the Appellant's exemplary and unblemished record, his immediate admission to the charges and his remorse.
- d. Unacceptable conduct of the Southwick Dynamos players and spectators.
- e. The Referee's statement in regard to how AW dealt with the young opposition player in that, "*AW, who was behind him, carefully grabbed him with both hands on his chest and lifted him off the ground and took him to this coach and left him there.*"
- f. The Commission's findings that, "*in particular that this was not a violent action, but that AW was trying to protect a player from getting hurt and.....*".

14. The Respondent, LFA, made the following observations/comments in regard to the Notice of Appeal:

- a. They disputed any application to allow new/additional evidence to be considered. The Appellant was duly informed of the charge via e-mail and the Whole Game System. The instructions relayed to the Appellant clearly included 'direction' that the Commission would only consider evidence which the Appellant had submitted prior to the hearing on 9th May 2023.
- b. AW's decision to abandon the game must be the last resort available to all parties, and the Match Official remains the sole arbiter of the match. The Appellant overruled the Match Official in these duties, which is a serious offence. The Match Official submitted a

statement which was opposed to the views of the Appellant and downplays the level of danger that his players were in.

- c. The Commission gave due consideration to the previous history of the Appellant.
- d. Although the Commission noted that AW's actions were not violent, AW's behaviour was completely unacceptable, regardless of whether it had violent intent, and created an atmosphere of hostility. The actions carried out by the Appellant were tantamount to improper conduct as defined in the FA handbook and that the sanction imposed was entirely appropriate.
- e. Where a player has to serve more than one suspension at the same time, then the suspensions have to run consecutively. Any suspensions that overlap will also run consecutively. As such, based on the FA Regulations in this matter, the Commission are unable to allow the sanctions to run concurrently.
- f. LFA stated that the sanctions were not "double jeopardy" as each charge relates to a distinctly different and separate offence, each with its own merits and sanction guidelines.

FINDINGS OF THE APPEAL BOARD

15. The Appeal Board, having considered written submissions made on behalf of the Appellant and the Respondent, make the following observations. The role of the Appeal Board is to exercise a supervisory jurisdiction. It is not the role of the Appeal Board to substitute its own decision for that of the Commission simply because it would have made a different decision at first instance.

Therefore, the Board must apply the following principles to the grounds of appeal:

- a. An appeal such as this proceeds by way of review of the Commission's decisions, it is not a re-hearing.
- b. It is not open to the Board to substitute their decision for that of the Commission simply because the Board might themselves have reached a different decision. If the Commission has reached a decision which it was open to them to reach, the fact that the Appeal Board might have reached a different decision is irrelevant.
- c. The Appeal Board should be slow to intervene with evidential assessments and factual findings made by the Commission. It should only be interfered with if they are clearly wrong or if wrong principles were applied. This is likely to be where there is no evidential basis whatsoever for a finding of fact that had been made, and/or where the evidence was overwhelmingly contrary to the finding of fact that had been made.

16. In their determination, the Appeal Board unanimously dismissed the appeal for the following reasons:
- a. The sanctions awarded for each charge were within the FA Sanction Guidelines (FASG). The FASG for Charge 1 are 0-3 matches and a fine of £0-40 (the Commission awarded 2 matches and a fine of £20). For Charge 2, the FASG are 1-10 matches and a fine of £20-125 (the Commission awarded 4 matches and a fine of £50). The Appeal Board considered these sanctions to be at the high end of the FASG, but not excessive.
 - b. Whilst the Commission was not able to direct that the sanctions run concurrently, they were able to consider the totality of the sanctions and adjust accordingly. The Commission decided not to do this and directed that the sanctions are to run consecutively. This was entirely within their jurisdiction to do so.
17. The sanctions imposed by the Commission are to remain and the appeal fee is to be retained. There is no order as to costs.
18. The Appeal Board's decision is final and binding on all parties.

Anthony Rock (Chair)

Jonathan Rennie

Roy Schafer

Monday 3rd July 2023