

# General Board of Appeal

Case ID:  
*11603031M*

*Personal Hearing*

**Joseph Servaes**

Appellant

v

**Hampshire Football Association**

Respondent

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The Decision and Written Reasons of The Appeal Board

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**Disclaimer:**

*These written reasons contain a summary of the principal evidence before the Appeal Board and do not purport to contain reference to all the points made, however the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Appeal Board did not take such a point, piece of evidence of submission, into consideration when determining the matter. For the avoidance of doubt, this Appeal Board has carefully considered all the evidence and materials in this matter.*

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## **Introduction**

1. This is an appeal by Joseph Servaes (the “Appellant”) against a decision of Hampshire FA (the “Respondent”) that was made by a Disciplinary Commission sitting at a non-personal hearing (correspondence) on the 27<sup>th</sup> February 2024.
2. On the 21<sup>st</sup> January 2024, there was a football match (the “match” or “game”) between *Rectory Road Wanderers First* (“Rectory Road”) and *A.S. Camboli 1<sup>st</sup>* (“Camboli”). Joe Servaes was a player (captain) for Rectory Road and therefore he is a “participant” for the purpose of this case.
3. A summary of the original incident is set out in the referee’s (unamended) report as:

*“At the final whistle I was approached by an AS Camboli player David Colfer to let me know of some homophobic comments that he heard during the game. As there were lots of players around shaking hands etc, I said that I would come and speak to him afterwards. I approached David Colfer and asked what he’s heard and by who. He told me during the first half the Rectory Road centre back who is the teams captain Joe Servaes made the comment, “what are you gay?” He told him that he shouldn’t say stuff like that. In the second half, the same player Joe Servaes made another comment, “why you jumping around like a fairy?”. David told me that comments should be made like that because he doesn’t know who is and it’s offensive. I told David that I was unaware of any comments made but would report it as an allegation to the FA and league”.*

4. The incident was investigated by the Respondent and the Appellant was charged on the 8<sup>th</sup> February 2024 with using foul and abusive language (E3) which was further aggravated due to reference to gender (E3.2). The Appellant responded to the charges and elected a correspondence-only hearing. This correspondence hearing was conducted on the 27<sup>th</sup> February 2024 and both charges were found proven. The Disciplinary Commission Chair

produced written reasons dated on the same date explaining how the decision was reached and the Appellant now appeals on the grounds set out below.

### **The Appeal Board**

5. This Appeal Board (“We”, “Us” and “Panel”) was appointed under The Football Association’s (“The FA”) Disciplinary Regulations - Appeals 2023/24. Assisting the Appeal Board on this occasion was an FA appointed secretary providing guidance to the Appeal Board on rules and regulations as and when necessary. For the purpose of fairness, there were no conflicts of interest between the Appeal Board and parties in this case.

### **The Grounds of Appeal**

6. The Appellant communicated to the Respondent by way of Notice that they had made the decision to appeal the Disciplinary Commission’s decision on the following grounds:

#### ***Ground 3***

*Came to a decision to which no reasonable such body could have come;*

#### ***Ground 4***

*Imposed a penalty, award, order or sanction that was excessive.*

### **The Hearing and Evidence**

7. The Appeal Board heard this appeal on the 25<sup>th</sup> March 2024 from 5.30pm online via Teams. The Appellant represented himself but requested to have an observer in attendance. This observer was Mr Steven Yeomans, the club welfare officer. Representing the Respondent was Declan Hellyer, staff within Hampshire FA. The Appellant was reminded that this was a review and not a re-hearing of the decision made by the Disciplinary Commission.
8. The following documents were presented to us for this appeal:

- 8.1. Notice of Appeal;
- 8.2. Response to Notice of Appeal;
- 8.3. Papers of First Instance;
- 8.4. Participant Offence History;
- 8.5. Results Letter and Written Reasons;

**New Evidence**

- 9. The Appellant invited the Panel to accept the introduction of new evidence, namely 26 statements from various individuals in attendance at the game. The Appellant was reminded that this is not a re-hearing and that we would only allow new evidence to be introduced in line with Regulation 10 of the Non-Fast Track Appeal Regulations.
- 10. The following paragraphs are a summary of the points raised and argued by the Appellant. As mentioned in the disclaimer above, these paragraphs do not purport to rehearse and reiterate every point made, while of course the Panel did take into account all of what was submitted by the Appellant.
- 11. The Appellant submitted to us that he was not entirely aware of how such proceedings work given that this was his first allegation of misconduct. He explained that he was naive about the process and felt the accusation was “farfetched”. In terms of procedure, he told us that he thought he had to physically attend a personal hearing if he selected this choice and was unaware it could be conducted remotely via Teams (much like this appeal). He said that he was unable to attend physical hearings due to working commitments and this is why he selected a correspondence hearing. He reminded the Panel that he made a statement on 23<sup>rd</sup> January 2024 and then after receiving the charge letter he provided a fuller account around the 19<sup>th</sup> February 2024 and felt he responded to what was asked of him. He explained that the reason behind the delayed (second) statement was because he was abroad on a pre-booked holiday and responded as soon as he was back. He told us that he had no difficulty

in obtaining witness statements from others but, again, naively thought that his statement was sufficient and had he known regarding the process of remote hearing, he would have selected this instead. When asked what he did to check the process, he told us that he had called the County FA and made enquiries, both in respect of the original case and also this appeal. He told us that he had a fuller understanding of how the system worked after he spoke to Mrs Sowton of County FA regarding this appeal, which is why he was able to contact his witnesses and produce 26 statements. He confirmed to us that each of those statements comes from a different individual, as is supported by their name and email (he clarified his copies contain the full email but ours were redacted). He then re-iterated points within his statement but was reminded that he is not hear to give evidence.

12. The Panel carefully considered this application against the guidelines and although there was not an entirely satisfactory reason for it not being produced on the first occasion, we appreciated that he would have been unfamiliar regarding the process (as his previous record supports that he had no prior misconducts). We also noted that he provided two statements and did comply with the request for his account. We accepted that he may have mistakenly understood the process to be in-person rather than remotely and we recognise that the charge sheet, within the options of response, does not refer to remote-hearings. The Panel reminded itself that his first statement did say he had reached out to witnesses and had “no plans to involve any of my players further unless needed for witness reports” – the Panel decided that this went towards supporting his misapprehension of such proceedings and the importance of evidence, albeit at his disposal. Although the Panel were partly-persuaded with the first element of Regulation 10, namely the reason why the evidence was not provided, we were entirely persuaded with the second element, in that the evidence was relevant. In fact, the Panel found the new evidence to be strong in respect of relevance and there would have been an injustice in not allowing an introduction. It should be stressed

that the volume of evidence only went so far as proving the point that the Appellant had such evidence at his disposal had he understood the process. Each of these statements contained a different name and perspective, and we had no doubt that each account was from a unique individual at the game. We therefore allowed the introduction of this new evidence.

### Ground 3

13. The Appellant argued that the Disciplinary Commission should have not found his case proven as it was one person's word against another. He said that any other witnesses that received the complaint was merely repeating evidence and had not heard it first-hand. Although he maintained the position regarding the original papers, he submitted that his primary argument is that no such reasonable body would find the case proven on the basis of the new evidence.

13.1. In response to these arguments, Mr Hellyer did not add anything further to arguments set out in writing. Mr Hellyer was unable to respond as to whether there had been any conversations with the Appellant and Mrs Sowton regarding the original case as there were no notes available for him to check.

### Ground 4

14. The Appellant did not advance this argument in the usual sense that the sanction was excessive. Rather, perhaps mistakenly, he argued that he should have not received a sanction because it should have not been proven.

14.1. Understandably, Mr Hellyer did not add anything further by way of his response to this particular ground.

## **The Decision**

15. The Panel would have not been satisfied that no such reasonable body would have come to the same finding on the original papers. The Disciplinary Commission correctly

approached the papers and made a reasonable decision that the case was proven by assessing the evidence before it. Similarly, the Panel would have also not been satisfied that the sanction was excessive. The sanction received was clearly within guidelines and in no way excessive. However, the decision of this Panel is made on the basis that there is now an introduction of new evidence. When considering the introduction of new evidence (for all the reasons outlined above), it undoubtedly makes a difference to the outcome, namely that it would have been more likely than not that it would have been found not proven. No such reasonable body could have come to the same conclusion had they assessed the new evidence against the accounts presented by the Respondent from the original hearing. As mentioned in the appeal outcome letter, the Panel stress that no criticism is passed to the Disciplinary Commission or the Respondent given that their original decision was made without the introduction of new evidence at the appeal stage. This Panel's decision was based as a result of the introduction of new evidence.

16. The Appeal Board would like to thank both parties for their submissions and the way in which they conducted themselves throughout the entire hearing;
17. The Appeal Board allow the appeal on ground 3 and need not consider ground 4;
18. There is no order made as to costs and the appeal fee is to be returned;
19. The Appeal Board's decision is final and binding on all parties.

**Alban Brahimi**, Chair

**David McWilliam**

**Emma Vase**

**Nathan Greenslade**, Secretary

2<sup>nd</sup> April 2024