

**IN THE MATTER BEFORE THE REGULATORY COMMISSION**  
**OF THE FOOTBALL ASSOCIATION**

**The Football Association**

-v-

**Milutin Osmajić**

**JUDGMENT**

Commission: Philip Evans KC (Chair); Preeya Sahni; Udo Onwere.

Date of Hearing; 23 and 24 September 2025 (at the IDRC London) & 7 November 2025 (for sanction via video link)

Counsel for the FA; Ms Madeleine Deasy

Counsel for Mr Osmajić; Mr Paul Greaney KC

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1. The hearing of this matter took place in person over two days the 23 and 24 September 2025. The constitution of this Commission was notified to the parties in advance and at the outset of the hearing it was confirmed that no objection taken by any party to its constitution.
  2. This case concerns an allegation against Preston North End FC player Milutin Osmajić (“MO”). The allegation arose during the EFL Championship match between Burnley

FC and Preston North End FC played on the 15 February 2025. The charges were subsequently notified to MO in writing on the 17 March 2025.

3. The charge against MO is that he acted in an improper manner, and/or, used abusive and/or insulting words towards another Participant, namely Hannibal Mejbri (“HM”) of Burnley FC, contrary to Rule E3.1, and, it is further alleged that this breach of Rule E3.1 is an “Aggravated Breach,” as defined in Rule E3.2, as it includes a reference whether express or implied to colour and / or race. At the start of the hearing, it was confirmed that MO understood the charge and that he denied it, as he had done in his written reply to the FA dated the 2 April 2025.
4. Rule E3.1 states: - *“A Participant shall at all times act in the best interests of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour.”*
5. Rule E3.2 states: - *“A breach of Rule E3.1 is an “Aggravated Breach” where it includes a reference, whether express or implied, to any one or more of the following: - ethnic origin, race, nationality, religion or belief, gender, gender reassignment, sexual orientation or disability.”*
6. Interpreters were used throughout the hearing to ensure that MO understood the proceedings and the hearing was transcribed. Both parties were afforded a full and fair opportunity to present their evidence and submissions and the Commission reached its decision based on all of the evidence placed before it.
7. The issue for this Commission to determine is whether, as HM complains, MO said to him the following words, “Fuck you, fuck your black Mother.” MO denies using these words, his case is instead, that he said to HM “Fuck you, fuck you bad man.” Mr Greaney KC represents MO. In his written submissions served prior to the hearing and again at the outset of his cross-examination of HM, he confirmed that MO’s case is, not that HM is lying but that he is mistaken when he says the words, “black Mother” were used.

8. We have been provided with the decision of the FA Appeal Board in the matter of *Yems (2023)* which sets out guidance as to the correct approach when deciding cases brought under rule E3.1 and E3.2.
9. In relation to E3.1 the question for the Commission is simply whether the words and/or behaviour are objectively abusive or insulting. The judgment in *Yems* reminds us, “*This is a matter for the Regulatory Commission to decide, having regard to all the relevant facts and circumstances of the case. It is not necessary to prove that the alleged offender subjectively intended his words or behaviour to be threatening, abusive, indecent or insulting.*” (Para 59)
10. In respect of an ‘Aggravated Breach’ contrary to Rule E3.2, it is a question of fact whether a breach of Rule E3.1 includes a reference to a protected characteristic, and this is also a question to be answered objectively. No question of subjective intention arises.
11. The judgment in *Yems* continues at paragraph 61, “*when determining liability in a case involving an ‘Aggravated Breach’ the Regulatory Commission...is not required to determine whether the Participant is or is not, for example, a racist. It is not uncommon for Commissions to express such an opinion. It is not required to do so. Nor often will it be well placed to do so as it would require Commissions to engage in an exercise of assessing and judging an individual's personal beliefs or prejudices. Further, to do so risks leading the Commission into serious error, in respect of the correct approach to liability or sanction or both.*” We have followed this guidance in the decision we have taken although we confirm we have taken into account the statement of Duane Holmes which speaks positively of MO’s character and sets out Mr Holmes’ experience of him. We have particularly had this evidence in mind when considering the likelihood of MO having committed the act alleged.
12. Therefore, what falls to be decided in relation to liability in this allegation of an E3.2 ‘Aggravated Breach’ is:
  - a. What was said;

- b. Whether that which was said was objectively (one or more of) violent conduct, serious foul play, threatening, abusive, indecent or insulting; and if it was;
- c. Objectively did the words include a reference to one or more of the relevant protected characteristics here, namely, ethnic origin, colour or race.

13. The words “Fuck you fuck your black Mother,” considered objectively, clearly fall foul of rule E3.1 and E3.2, viewed objectively they are very clearly abusive whilst making reference to colour and/or race. In those circumstances and as Mr Greaney accepted in his closing address, the only question remaining for this Commission to consider is whether we are satisfied to the requisite standard that those words were said by MO to HM.
14. The burden of proving that allegation is on the FA and as the FA handbook sets out at paragraph 8 of its general provisions, the applicable standard of proof for these proceedings is the civil standard of the balance of probability. We have also been provided with the judgment in another FA matter, the case of FA v Imran Louza (2022) in which the Appeal Board of the FA reviewed the law in relation to the civil standard of proof. We have considered that judgment in full. Taking guidance from that case the decision that this Commission must make, is whether the words “Fuck you fuck your black Mother” were more probably said by MO to HM than not.
15. Having referred to the case of *Louza* and in particular to paragraphs 34 and 35 of the judgment, Mr Greaney also submits we should conclude that the alleged act is inherently improbable, because he says, a professional footballer is inherently unlikely in a derby match, being watched live by more than 20,000 people, and being broadcast live on Sky, for the first time in his career, to direct a racial insult at another player. If we do so find, he submits that finding would be relevant to our consideration of whether it was more likely than not that this event had taken place. Putting aside the question of whether such an act is or is not inherently unlikely we have considered this question and accept the reasoning as to how we should use any such finding.

16. HM gave evidence via video link; he had provided a statement dated the 18 February 2025. He confirmed he was playing in the local derby match against Preston North End on Saturday the 15 February 2025. He described the fans as being on fire but said it was a good atmosphere and nothing out of the ordinary had happened. He had no previous issues with the opposition club or any of their players.
17. He said the incident took place between the 50th and 60th minute when there was a long ball out from the Preston goalkeeper which went towards MO who failed to control it. HM, who was nearby laughed at MO “just to wind him up a bit.” He then got closer to MO and gave him a nudge in the back and then turned around to go back towards his position because the ball had gone out of play for a throw in.
18. He then felt MO had come up behind him and he heard him say “fuck you”, to which HM reacted by carrying on laughing and walking away. MO then said, “fuck your black Mother.” At this Hannibal stopped laughing and his face completely changed because he said, it was no longer funny. When those words were said to him, he was facing away from MO, but MO was directly behind him, and he said it by his ear. The words were said in an aggressive tone and at a normal volume, he said he heard it very clearly and is certain that MO used the term “black Mother.” HM went straight to the referee and said stop everything and told him what had just been said to him.
19. We were provided with footage of the incident in various formats. It does show the Preston goalkeeper clear the ball from his penalty box with a long kick up field towards MO. That clearance followed a free kick which had been quickly taken by HM. It shows that MO failed to control the ball which went out of play for a throw-in to Burnley. From the footage it is possible to hear the crowd noise and it is possible to see the majority of the interaction between MO and HM. As the ball goes out it shows HM push MO in the back and then HM turn away from MO and walk away from him. MO does then follow and did get close to the back of HM when he can be seen saying something, whilst he is close to the back of HM’s head. Immediately following that HM puts his hand up and runs directly to the referee to complain. The Commission were all struck by the nature of HM’s reaction and the immediate and determined nature of his complaint. We are satisfied that by that time HM believed something had been said

to him which he found deeply insulting and abusive. HM was from that point on obviously very upset and animated as a result.

20. After HM had spoken to the referee, he went to his manager Scott Parker, who was in the Burnley technical area. His manager asked him what had happened, and he told him what MO had said to him. He said he told Scott Parker that MO had said “fuck your black Mother.” HM then spoke to the fourth official, Aaron Jackson and told him what MO had said; the fourth official made a note of what he said whilst Scott Parker was also present. The note, which the fourth Official wrote contemporaneously, has been made available to us, it reads, “He came right up to my ear FUCK YOUR BLACK MOTHER, No 28.”
21. Preston North End players also came up and asked what MO had said and HM said he told them as well. The match restarted, he didn't speak to MO about the incident and just carried on playing. The Preston North End fans were shouting at him, and he was substituted around the 70th minute when he was then booed by the Preston North End fans. This understandably upset HM even further.
22. Around an hour later HM went to speak to the match officials in their changing room. He went together with his manager and other representatives from Burnley FC. During that meeting, the referee Andrew Kitchen, again asked what had happened and the fourth official again wrote down what he said. The fourth official read back to him what he told them, and he confirmed it as correct. He was told the matter would be reported to the FA and he left the changing room.
23. Scott Parker, the Burnley manager’s evidence was unchallenged and was contained in a statement dated the 18 February 2025. Mr Parker said that although the game was a local derby, it didn't feel like it, as there was no heightened aggression in the game. In the second half he was stood on the touch line when his attention was drawn to HM’s reaction to an incident. HM was gesturing with his arms and saying “stop the game” he said he had never seen any other professional player react like that before, HM was clearly emotional, and he wanted to get hold of him and take him away from the situation and try and establish what had happened.

24. HM came over to the touch line and said that a Preston North End player had said to him “fuck you and fuck your black Mother or Mum.” Mr Parker distinctly remembered the word “black” but could not confirm with confidence whether the word that followed was Mother or Mum. He called the fourth official over to report this and told him they needed to get the referee over and go through the reporting process. The referee joined them, and HM told the referee and the fourth official exactly what had been said by the Preston player who HM identified as number 28. He recalled the fourth official making a note whilst HM relayed the allegation.
25. Later in the game he substituted HM who then sat in the Burnley dugout for the remainder of the game. Unfortunately, some Preston supporters behind the dugout started abusing HM, booing and gesturing towards him. One supporter was going ballistic at HM and Scott Parker told the spectator to calm down.
26. After the game he went with HM and other Burnley staff to meet the match officials. The referee again asked him to relay exactly what had happened and the fourth official made notes which were read back to HM who confirmed they were correct.
27. In reaching the decision we have, we have reviewed the transcripts of the hearing and have taken into account all Mr Greaney’s cross-examination of HM, during which HM agreed that the game was noisy, as he said, “it’s a football game.” He also agreed that when MO spoke to him, he was walking away from him. He agreed he had never heard MO speak before on any occasion. HM said he did not think about MO’s accent just about the gravity of the words that were used.
28. Mr Greaney asked HM questions about the meeting in the referee’s room. HM said that between the end of the game and going to the referee’s room he had spoken to some of his teammates and to some of the Preston players and to some Preston staff. He agreed he was aware he was going to the referee’s room to make a statement for the FA and that it was important. He was asked why he had told the referee that MO had used the word “Mum” rather than “Mother” as he had said earlier. Mr Greaney put to him the reason for the difference was his uncertainty as to what had been said by MO but he disagreed with that suggestion. Instead, he explained that he considered the word mum and mother as the same thing. Mum is a word that he used every day and mother

was the word that MO used, but that he, HM, did not really use the word mother when he spoke. He said at the end of the day Mother and Mum are the same thing. He confirmed that the word MO used was “Mother”.

29. Both the referee Andrew Kitchen and the fourth official Aaron Jackson provided statements and were called to give evidence. Mr Kitchen also provided an extraordinary incident report the day after the incident. Neither witness heard what was said by MO on the pitch.
30. Mr Kitchen confirmed the incident had taken place in the 57<sup>th</sup> minute of the game. He was approached on the pitch by HM who alleged that MO had said, ‘fuck your black Mother’ to him. Having dealt with the resulting melee on the pitch he took HM to the Burnley FC technical area where HM said he had laughed at MO who responded by saying “fuck your black Mother.” At this time HM appeared distressed but communicated clearly. What HM said was recorded by Aaron Jackson on the ‘green card.’
31. Mr Jackson confirmed the first he was aware of any incident was when he saw HM running towards the referee. He first became aware that an allegation of racism had been made by HM as a result of what he overheard from a crowd of players who had gathered around the technical areas. He spoke to Andrew Kitchen and reminded him that they needed to go through the discrimination protocol and get an account from the player straight away. We were provided with a copy of that protocol. Mr Jackson took his green card (AJ/01) and asked HM to repeat what had been said to him. HM said, “He came right up to my ear and said, Fuck your black mother.” He then identified the person who said those words was MO.
32. Both the officials confirmed that after the game HM was invited together with his manager Scott Parker and other Burnley personnel to come into the referee’s changing room. This was consistent with the protocol which requires the officials, shortly after the conclusion of the game, to invite the player making the allegation, together with a member of their club, into the referees changing room where the referee should confirm the exact words used in the allegation.

33. Mr Jackson confirmed what was said by HM in the referee's changing room was, "Fuck you. Fuck your black Mum." He also wrote this down on the green card and read it back to HM to confirm he was happy with what had been recorded.
34. Both officials were asked about the meeting with MO which subsequently also took place in the referee's changing room. Mr Jackson said MO came to the room a few minutes after the meeting with HM had finished. He attended together with Stuart McCall the Preston North End assistant manager and Ben Rhodes the Preston Secretary. Mr Jackson said Andrew Kitchen asked MO to explain what happened. He said, "I play with two player here my 2 friends, Cadiz 6 friends, black friends" and had said to HM, "Fuck you. Fuck you bad man." He also said he "has too much black friends" When it was put to MO that he had been accused of saying "Fuck your black mum" he responded, "He's lying" and "I'm angry" and said, "I promise my baby, I said fuck you, fuck you bad man." These responses were also noted down (AJ/02) by Mr Jackson and read back to MO to make sure he was happy with them. Mr Jackson said that to the best of his memory MO was told the detail of the allegation that HM had made after he had told the officials what he had said. Mr Jackson commented that MO's English was not perfect, but it was good, and he appeared to be able to understand everything that was said to him and to be able to express himself well.
35. On the question of whether MO was told the details of HM's complaint before or after he gave his first account, Mr Kitchen's evidence differed. He said in both his extraordinary incident report form (dated 16 February 2025) and his statement (dated 18 February 2025) that MO attended his changing room with Stuart McCall and the Preston club secretary. He explained the reporting protocol to those present and then, after the allegation made by HM was relayed to MO, MO told then what he had said, and this was recorded, as above, by Mr Jackson. Mr Kitchen was recalled so that he could be cross-examined again, now about this issue. He was taken through the protocol and told what Mr Jackson's evidence had been as to the order of events. Mr Greaney told Mr Kitchen that MO agreed with Mr Jackson, that is to say, MO's case was that the allegation was first read to him in detail after he had given the officials his first account. When it was put in cross-examination to Mr Kitchen that he did not give the detail of HM's allegation first he said, he was not now able to remember the precise order of events but when asked further questions by the Commission, he confirmed that

he had no reason to doubt that which he had written in his statement and his report when, he said, his memory of the events was significantly better.

36. In our view any significance which may have attached to this issue largely fell away when MO gave evidence, because in answer to questions from his own Counsel, he said the following;

*Q I just want to be clear about a couple of things. At the time that you told the referee that you had said, "Fuck you. Fuck you bad man", at the time that you said that to the referee, had the referee read to you from the green card what Hannibal had said?*

*A. Yes.*

37. Even making all allowances for any possibility of language confusion MO agreed with the version of events that Mr Kitchen had written in his statement and which he relied on during his live evidence. Additionally, although MO's evidence as to what he was and was not told of the allegation whilst he was still on the pitch, was in our view confused, when he was referred to the part of his interview in which he discussed what he had been told whilst on the pitch, he said that, in the aftermath of the incident he thought he had been told that the allegation being made against him was that he had used the word 'black' in the context of a racial comment to HM. MO was therefore aware, for some time, that the allegation being made was of a racial slur and he was aware of a significant aspect of that allegation, namely, that it included him having used the word 'black.' Although beyond this, precisely what MO was told by various players involved in the ensuing melee is unclear, what is clear is that MO had time to consider a significant aspect of the allegation before he gave his first account to the officials and even on his own evidence, the earliest occasion on which he told anyone his version of events was in his own changing room, when he told Stuart McCall, shortly before going to the meeting with the referee.

38. When MO gave evidence, he confirmed he is 26 years of age and born in Montenegro. His first language is Serbian, his second Spanish. He said he speaks and understands some English. He set out his playing history up to his signing for Preston North End in September of 2023. His playing career he said has included playing with and being friendly with a number of players of non-white heritage.

39. MO also referred to the statement of Duane Holmes which we have been provided with and have read. Mr Holmes is a professional footballer and friend of MO who at the time of this incident was signed for Preston North End. On the day of the incident Mr Holmes was injured but was present at the game. His evidence is that MO has never displayed to him any sign of racism and he confirms that both towards him, a man of mixed ethnic background, and to other players of non-white heritage, MO has always behaved entirely appropriately. We have taken account of Mr Holmes positive evidence as to MO's character into account, in MO's favour, when reaching our conclusions in this case. For example, we treated it as evidence in MO's favour when considering the likelihood that he would have committed an act such as that alleged.
40. MO went on to tell us that this was the first derby game between Preston and Burnley that he had played in, it was a sell out and the crowd noise was very loud. He had never played against HM before and had never met him.
41. He said that in the 56th minute his goalkeeper kicked the ball up field and MO attempted but failed to control it. The first thing he became aware of was HM pushing him and he turned around to see what was happening. He saw HM mocking him in his face in front of the home crowd. He said, "I think he put his tongue out at me. I was not really angry, but I was feeling uncomfortable at that moment." As part of MO's case, it was suggested that by viewing and listening to the footage the crowd can be heard reacting to the push and the mocking by HM. We did not find that suggestion to be supported by the evidence. We watched the footage several times and have formed the view that the crowd noise rises immediately after MO failed to control the long ball which went out of play. It is not possible to say with certainty which part of the crowd reacted, but the sound is in our view more consistent with it emanating from the away fans than the home fans. It is therefore possible that the jeering was aimed at MO for failing to control the ball and not at HM.
42. Asked what his reaction to being pushed and then mocked was, he said "I came closer to him, and I said fuck you, fuck you bad man." He said I felt 'bad man' was the right word to use as I just wanted to get back to him for what he had done. He denied using the word 'black' or making any reference to his mother or mum.

43. After the incident he went back to his position on the pitch and after some time he turned around and saw something was happening. The Burnley goalkeeper came up to him and said that something had happened. He did not say exactly what but just said there was something racial. He was pointing his finger at me and saying I was a racist. MO was substituted off and after the game, in the changing room, his own players came to him and asked whether he really had said something racist.
44. Later he went to the referees changing room together with the assistant manager Stuart McCall and the club secretary Benn Rhodes when he walked in the changing room, he said he didn't know the exact words that HM had accused him of saying.
45. Although he said he could not remember the exact order, he said, I think he got the green card and told me what Hannibal had said and asked me to say what I said. I told the referee I said, "fuck you fuck you bad man." He confirmed that at the time he told the referee he had said "fuck you fuck you bad man" the referee had read from the green card what Hannibal had said.
46. MO said that before he was asked by the referee to come to his changing room he had spoken to Stuart McCall and told him the same. That exchange had taken place in the Preston North End changing room.
47. He denied using the word black or saying anything racist to HM.
48. We heard evidence from lip reader, Ms Tina Lannin who prepared two reports and gave evidence before us. She described her work as an art not a science and throughout her evidence maintained a commendable sense of reality with regard to the limitations of the evidence she provided. In her first report dated the 4 March 2025 she set how she worked together with another lipreader called James Freestone. She produced a series of transcripts which she had compiled from the footage given to her which she described as reasonable quality.
49. From footage Exhibit 1 ANB01a, at timer 00:08, she read MO as saying, "Hey. Fuck you. Fuck you, black [blocked]. In the same exhibit 00:31 a clip of the same incident,

she read, “Hey, Fuck you. Fuck you, black [blocked] ... er,” and later in the same exhibit at 00:58, when HM was speaking to the Referee, she read him saying, “Fuck you, black [blocked].”

50. From Exhibit 2 ANB01b she read at 00:15, “Hey. Fuck you. Fuck you, [blocked] brother. At 00:22 HM reporting to the referee “He said, fuck you, black [blocked].

51. From Exhibit 3 ANB03 at 00:14 she read, “Hey. Fuck you. Fuck you, [blocked] brother and at 00:20 [to the referee] “He said, fuck you, black brother” and from the same clip the phrase “black brother” being repeated to a teammate of HM and to others including the fourth official.

52. In appendix iii of this first report Ms Lannin set out a number of limitations to lip reading, all of which we have taken into account.

53. Ms Lannin then produced an addendum report dated the 23 April 2025. Having produced her first report, the FA provided Ms Lannin with a report from Dr Yang prepared on behalf of MO along with the statement of HM and the interview of MO. In those documents both men set out their conflicting accounts of what was said. Having read those documents, at page 4 of her report, she sets out why the words “brother” and “mother” are so close in terms of lip reading and are easily confused. Her opinion is that the footage could very well contain the word “mother” rather than “brother,” as her original transcripts suggested and so is consistent with HM’s account. She explained why “mum” is an entirely different word to lipread from “Mother.” Significantly, as part of this process, she considered MO’s account that the words used were “Fuck you, fuck you, bad man.” She said, “bad man” would look like two words, two phonemes. ‘Black’ and brother/mother would be two words and three phonemes. When played slower at 0.2 x speed, she said she could see three phonemes, and James was in 100% agreement with this, he also sees three phonemes. Her conclusion, which she re-affirmed in evidence before us is that it is absolutely not possible that ‘bad man’ was said.

54. Her report then sets out her further analysis of the two competing versions in relation to the various transcripts now she. From Exhibit 1 ANB01a, she explains that at 00:08

she sees movement consistent with the 'BL' of 'Black' so MO cannot have said 'Bad'. At 00:31 she can see 'BL' and 'ER' at the end, so MO cannot have said 'Bad' or 'Man.' She concludes that he said, "Black Brother" or "Black Mother."

55. From exhibit 3 ANB03 she concludes that MO is seen to say, "Hey. Fuck you. Fuck you [blocked] brother. There are she says, definitely three phonemes here not two, thus it is not consistent with the use of the words 'Bad man.'
56. At appendix iii of this second report Ms Lannin provided a document entitled "White Paper: Forensic Lip Reading," which over several pages sets out a detailed analysis of lip-reading evidence including many factors affecting its reliability and designed to manage expectations.
57. When she gave evidence Ms Lannin did so using a system of captioning which allowed a transcript to be produced in front of her to ensure she accurately understood the questions she was being asked.
58. Ms Lannin was asked about the effect of her having been sent by the FA, footage which included footage of HM telling the referee what MO had said to him. It was suggested this risked influencing her conclusions as to what MO is seen saying to HM. Ms Lannin accepted that it could create some risk of her being influenced in her conclusion but said it could also be useful as it allows her to place things into better context and context is important to her work. Whilst we acknowledge there is a risk of Ms Lannin having been influenced, it seems to us that she is well aware in her practices of the need to avoid such bias and guarded against it and had in relation to the questioned footage watched it many times seeking to come to an independent conclusion as to its contents. It can also be said that her reading of what HM said when he was speaking to the referee goes to confirm her ability to lip read accurately.
59. The witness was asked about her interpretation of ANB01A at .00.08 and 00.31. At 00:08 she read "hey fuck you fuck you black" then a blocked word, but when it was slowed down, she then saw the letters 'er' at the end. Ms Lannin agreed with Mr Greaney that in her first viewing of the clips, although she did pick out the word 'you' which she explained is easily interchanged with 'your,' she ultimately did not read the words 'your' or 'mother' in her first analysis. She also explained how and why

‘mother’ and ‘brother’ look alike when spoken. We completely understood her evidence in relation to those easily interchangeable words and we felt that in the context of lip reading they are expected and reasonable variations.

60. Ms Lannin was also asked about a log or a record which was made of the early part of her work, in which she recorded, “could this be black bastard” raising the possibility that the seventh word said by MO was in fact ‘bastard’ and not ‘brother.’ She acknowledged this was difficult footage with people running and a view that was partially blocked at times which they had to go over several times to be more certain of what they could see. She also acknowledged that James initially raised the possibility that the word being said was ‘prick.’ But she pointed out that the first part of brother and the first part of prick namely BR and PR look the same to the lip reader whilst acknowledging that the end of the words look different on the lips. She accepted that here this was an example of her and James pulling their views, pulling their experience and working jointly. She acknowledged that there is some risk of them influencing each other but said she has known James for about 20 years, and they trust each other's judgement. If one thinks the other is incorrect, they are flexible enough to accept that or to come to an agreement on what is more likely.

61. Ms Lannin accepted that lip reading is far from being 100% reliable and she properly accepted numerous limitations to lip reading that were put to her by Mr Greaney. She acknowledged that she had not been told which language MO spoke, she acknowledged that accent can have some affect, but she would expect the vowels of a word to have some difference, but the consonants would be the same. She did not accept that she had made a mistake and disagreed that what was in fact said was, “fuck you fuck you bad man.” She said she could not see the word ‘man’ being said.

62. Mr. Greaney asked Ms Lannin if she was aware that the FA had instructed a different lip reader [REDACTED] Ms Lannin expressed some concerns [REDACTED]  
[REDACTED]  
[REDACTED]. Ms [REDACTED] concluded that the seventh word was ‘bastard.’ Ms [REDACTED] conclusions were provided to us as unused material. Neither party called her to give evidence as part of its case and her evidence has not been tested before us. We

have taken into account the reliability point raised on behalf of MO in his favour, but we also note that Ms [REDACTED] came to the conclusion that the words spoken were “fuck you fuck you black bastard,” in both witnesses view the word ‘black’ was used.

63. As part of our consideration of this witness’s evidence we have reminded ourselves of the Court of Appeal Criminal Division case of *R v Luttrell and others [2004] EWCA Crim 1344*, which made clear a need to approach such evidence with caution. We recognise that this Commission is not bound to follow strict rules of evidence but nonetheless we have directed ourselves in line with *Luttrell*. In exercising caution, we were reminded by Ms Lannin and by the white paper that she provided of a number of factors which should be taken into account when assessing such evidence. We have considered all of them. We acknowledge that lip reading evidence can fall significantly short of perfection and in considering the appropriate weight to attach this evidence we have borne firmly in mind the risk of mistakes in relation to the words a lip reader believes were spoken.
64. We have considered all of the reasons urged upon us that might lead to imperfection including accent, language, the available view and the speed of that view, all of which may have contributed to a mistake. Specifically in this case we have borne in mind the relatively short piece of footage that Ms Lannin had to view MO’s words, her absence of prior experience of MO and his speech and as Mr Greaney pointed out, the fact that Ms Lannin was provided, for the purposes of her first report, not only the footage of the incident in question where MO was speaking to HM, but also of the footage shortly after when HM relayed his complaint to the referee on the field.
65. We have also considered the two reports relied on by MO from Dr Junhui Yang as well as material derived from the “Guidance for organisations pLannin to use lip reading for information gathering, issued by the Division of Psychology and language sciences of the university College London,” referred to in Dr Yang’s report. Although Dr Yang offers a general expert opinion as to the reliability of lipreading, she does not present any specific alternative opinion to Tina Lannin. She describes lip reading as a very inaccurate form of communication and says that research has shown less than half of a spoken interaction can be identified.

66. Dr Yang sets out in her first report a number of factors which mitigate against successful lip reading including the distance between the speaker and reader, slang or regional dialect, mumbling, emotive language, distorting facial expressions and having a strong regional accent. She goes on to give a number of examples of issues which may arise. We do not set all of them out here but have considered the entirety of both her reports when assessing this area of the evidence.
67. We also acknowledge that Dr Yang includes in her first report a section taken from the University College London guidance which opines that lip reading is not useless but is inherently unreliable and urges checks when considering its interpretation. Dr Yang also summarises what expert lipreaders can and cannot do. What the guidance acknowledges lip readers can do (if the relevant safeguards are taken into account), amongst other things, is prepare a transcript of what *may* have been said, much as Ms Lannin has here. Dr Yang concludes that all that is possible to offer is a qualified opinion of what might have been said.

## **FINDINGS**

68. We have watched the various footage many times. It shows a long ball from the Preston North End goalkeeper going out of play at the side of the pitch, then HM pushing MO and then taking an opportunity to mock him. By the time HM pushed MO the crowd noise had already risen in reaction to the situation. We think it is more likely that the crowd noise rose because MO failed to control the long ball and we are not satisfied the reaction was a reaction to HM's push. The footage then shows MO going up behind HM and getting close in order to say the words to him. When he speaks MO obviously appears annoyed and is animated. When he uttered the words in question he did in very close proximity to HM and, although there was crowd noise, the level of noise does not appear from the footage, to have been at a peak at the time MO spoke the words.
69. In our view the immediacy of HM's reaction and the nature of it are significant factors in this evidence. It is clear to us that HM was in a good position to hear exactly what was said to him. His ear(s) was close to the mouth of MO who clearly spoke the words he did with some force. As soon as it had been said HM became extremely animated and went directly to the referee. He shortly afterwards complained that the words, "Fuck

you, fuck your black Mother” had been said to him by MO. In all the circumstances we conclude that HM would comfortably have been able to hear what was said to him and that he did hear it. In reaching this conclusion we have taken into account that neither player’s first language is English, the inevitable difficulties created by for example the crowd noise, the short nature of the exchange and all other factors urged on us but – having considered the evidence HM gave and having viewed the footage many times and observed all of the circumstances we are satisfied that HM has honestly and accurately recounted what was said to him.

70. The manner and content of HM’s evidence impressed each member of this Commission. We found him to be an honest witness and we each assessed his overall evidence positively and all agreed that it was compelling. We conclude his evidence was cogent, appeared to be without embellishment and was consistent from the time he first approached the referee. We have taken into account that in the referee’s changing room when asked his account again, around an hour after the game had finished, HM used the word ‘Mum’ rather than ‘Mother.’ In evidence HM accepted that he had used a different word, but he provided what the Commission considers to be a perfectly acceptable and understandable reason for the use of the word “Mum” rather than “Mother” as he did when he was asked about the same issue in his witness statement.

71. The fact of, and the manner of his immediate reaction makes it very clear that he firmly believed that something which greatly upset him had been said. We are satisfied that he is not mistaken when he says those words were, “Fuck you, fuck your black mother.”

72. In relation to MO’s evidence, we agree with the suggestion from Ms Deasy that the footage shows he was frustrated by his failure to control the ball. MO reacted to that and had become provoked. He accepted the mocking was not pleasant and he felt uncomfortable as a result of it. He agreed that he wanted to get back at HM for what he did, that he had lashed out in a verbal attack and that the mocking had got the better of him. We are satisfied that in that moment, he reacted and in doing so used the words “Fuck you, fuck your black mother.”

73. In reaching this conclusion we have taken account of all the evidence including all we have heard about the character of MO and our assessment of him as a witness. We

acknowledge there is no evidence of any similar behaviour in the past and accept this makes it less likely he would have behaved in this way on the 15 February 2025. However, considering all of the evidence placed before us, we find that on this occasion he did react badly by using the words he is accused of.

74. MO's account of what he had been told of the allegation and when was not clear. In his evidence he said that whilst he was on the pitch, he did not know the words he had been accused of saying. In large part he maintained that stance, but it was put to him that in interview, he said other Burnley players came to him and claimed that I said, "that word" and he was asked to explain what he meant by "that word." Initially he continued to deny he knew anything of the precise allegation but later, in response to questions from the Commission he accepted he had been accused on the pitch of using the word 'black.'

75. It is clear to us that MO knew, at that time, that he was being accused of a racist act which included the word black. By his own admission, he did not at that point give anyone on the pitch his account of what he had said, instead all he did was make a general denial. We agree with the FA that it is more likely than not the reason MO did not immediately protest his innocence in detail is because he had not at that point come up with the alternative explanation of 'fuck you bad man.' MO agreed that on the pitch he knew he was accused of using the word black and he agreed ultimately that Mr Kitchen was correct in saying HM's allegation was read to him before he gave his first account to the official. In our view there was sufficient information available to MO and for some time before the meeting in the referees changing room, to allow him to try and fit his explanation as best he was able around the allegation that he knew was being made against him. We conclude it is more likely than not this is what he did.

76. Therefore, putting aside the lip-reading evidence, we are satisfied based on the other evidence that it is more likely than not that the words "Fuck you fuck your black Mother" were said by MO. The lip-reading evidence does however, in our view, provide credible supporting evidence for that conclusion. It has not been suggested that lip reading evidence is inadmissible as category of evidence, or that it is entirely without use. We have considered carefully all of the limitations urged upon us both by Ms Lannin herself and on behalf of MO from other sources. Ultimately however we found

the evidence very persuasive that the word ‘black’ was used by MO, something he denies, and persuasive that the lip reader was able to identify the word ‘brother’ or ‘mother.’ Additionally, the evidence was very persuasive that the words ‘bad man,’ were not used by MO and that evidence was undermining of the account given by him. An account which we found for other reasons was more likely than not to be an explanation he thought up to try and fit the allegation being made.

77. Accordingly, we find that the FA has proved on the balance of probabilities that Mr Osmajić used the words alleged. We find that those words were both abusive and insulting and included a reference to colour or race and which therefore amount to an aggravated breach of Rule E3.1 by virtue of Rule 3.2.

## **SANCTION**

78. The part of this judgment, set out above, was provided to the parties, in writing, on the 9 October 2025. Shortly thereafter a further date of the 7 November 2025 was set down to consider the question of sanction. The Commission has received helpful written submissions from both parties, in advance of that hearing which was conducted via video link, with interpreters available for MO.

79. Paragraph 47 of Part A: Section One – General Provisions states:

*When (as here) an Aggravated Breach is found proven, a Regulatory Commission shall apply The Association’s sanction guidelines for Aggravated Breaches set out at Appendix 1 to Part A: Section One – General Provisions.*

80. The relevant guidelines are found at pages 174 to 176 of The FA Handbook 2025-2026. In particular:

*A finding of an Aggravated Breach against a Player, Manager or Technical Area Occupant will attract an immediate suspension between 6 Matches and 12 Matches (“Sanction Range”).*

*A Regulatory Commission shall take all aggravating and mitigating features into*

*account, including but not limited to those listed in the guidelines when determining the level of sanction within the Sanction Range.*

*The lowest end of the Sanction Range (i.e. 6 Matches) shall operate as a standard minimum punishment (the “Standard Minimum”).*

*(At p175) A Regulatory Commission will have due regard to the circumstances and seriousness of the incident when determining the appropriate sanction.*

81. The handbook sets out some exceptions to the minimum standard, but it has not been suggested here that any exception applies, and we agree, there are no reasons to do so.
82. As a result of the paragraph in the Handbook entitled ‘Education’ (p175) any Participant who is found to have committed an Aggravated Breach shall be made subject to an education programme, the details of which will be provided by the FA.
83. We have had our attention drawn to a number of previous FA cases which have involved similar types of offending. Many were decided prior to the implementation of the “Standard minimum” and therefore provide limited guidance. Despite that we have considered the outcomes of those cases and their facts and have, as submitted by Mr Greaney that we should, used those cases as part of the process of assessing where this matter should sit in the scale of between 6 and 12 match suspension.
84. We have considered both parties written and oral submissions as to the severity of this offending and the aggravating and mitigating factors that they respectively say should and should not apply. We have had regard to the list of factors to be considered as aggravating and mitigating set out on pages 175 and 176 of the Handbook. We have kept in mind that those lists are not exhaustive.
85. In relation to the circumstances and features of the seriousness of the incident we consider the fact that MO, *“agreed that he wanted to get back at HM for what he did, that he had lashed out in a verbal attack and that the mocking had got the better of him. We are satisfied that in that moment, he reacted and in doing so used the words “Fuck you, fuck your black mother”* is a significant feature. There was a deliberate choice by

MO to use the words he did and although we acknowledge he said those words only once and that it was said in response to some mocking, nothing about HM's behaviour was outside that which occurs regularly on football pitches and on other sports fields. It certainly did not warrant the response it received. It was entirely open to MO to have responded in way which did not involve using the language he did. His choice of words was intentional, and it has never been disputed that those words would amount to racist words if they were said, MO denied saying them, but this Commission has concluded he did. What happened was an intentionally racist act.

86. The public nature of this incident is an aggravating feature, playing out as it did in front of a significant crowd of approximately 21,000 and covered on television in front of a much larger audience, meant that MO's actions had the potential to undermine public confidence in the game's commitment to equality and inclusion. We have taken account of the fact that the crowd and the viewing public would not have heard the words used, however it would have been plain that something significant was said by MO given the reaction of HM and the significant hiatus in the game which was caused by the incident.
87. The fact that MO is a player with a high profile within football, playing as he does for an EFL side and representing his country on the international stage is also an aggravating feature.
88. As part of this sanctioning process we have been told that in October 2024 MO received an immediate suspension of 8 matches and a £14,000 fine for committing an act of violent conduct when he bit a Blackburn Rovers FC player. We have read the judgment of the Commission in that matter and can see that, although Mr Holmes had been the subject of a foul, the player who MO bit, presented no risk to him or anyone else at the time he bit him. We acknowledge the offence was a different offence, as were some of the circumstances, but it was also an unacceptable overreaction on the pitch to an opposition player against whom MO had a grievance. On that occasion MO bit and on this he racially abused. Despite having been banned for 8 matches MO nonetheless, after only a short period, went on to commit this offending. This incident, in our view, represents a serious aggravating feature.

89. Although we agree with the FA that MO did deny the offence and did give an exculpatory account which we have rejected, we do not in the circumstances think that should aggravate the sanction. We take the same view in relation to the fact that MO has demonstrated no remorse for his actions.
90. In terms of mitigating factors none of those listed on p176 of the handbook apply. We agree that mitigating factors are not limited to that list. Mr Greaney submits that a number of factors should apply in this case to reduce the seriousness and in turn the sanction.
91. Dealing with the issue of provoking conduct by HM we have set out above what HM did. It is true that this incident came about as a reaction to that behaviour but it was in our view retaliatory behaviour and completely disproportionate to what HM did. Although we have taken the overall context of this incident into account when positioning the severity of it in the overall scale of offending, we do not agree that the sanction should be mitigated as a result of any provocation.
92. We acknowledge that, although what was said was said deliberately, it was said only once. That fact means the breach should be seen as a less serious breach than one which is repeated several times and we have taken that into account when making an overall assessment of seriousness.
93. We acknowledge that MO does not have any history of discriminatory conduct and that is to his favour but, given his record for the other matter we have set out above and its proximity to this incident, we do not agree that fact should represent a specific mitigating feature in the circumstances here. We also do not think that the stain on his own character or the embarrassment he has caused his family by that behaviour, in choosing to use such language against a fellow footballer, should provide any mitigation of this sanction.
94. Balancing all of those matters we consider the appropriate period of suspension is for a period of 9 matches.
95. The submission was made on behalf of MO and PNE, that we should not require any suspension to start immediately, as this would be to punish the club rather than the

player. PNE advanced the submission because the hearing was taking place on the Friday morning before their fixture the following day away at Millwall FC. PNE said it had not known whether or not MO would be suspended and had to prepare for the match the following day. The FA's response directed us to paragraph 56 of the Disciplinary Regulations, Part A - General Provisions, which states, *unless the Regulatory Commission determines otherwise, a penalty or order shall come into effect immediately at the date of the notification of the decision*. The FA also pointed out that PNE had known the hearing would take place on the 7 November 2025 since the 14 October and they knew that MO would be the subject of a minimum 6 match ban. We agree that PNE had plenty of notice that the Commission had found the breach proved and that sanction would be decided on the 7 November. It was plain that the outcome was inevitably a suspension of some weeks and there was a very good chance that would happen on the 7 November. The Commission decided the sanction would begin immediately from the 7 November 2025.

96. We heard no submission from either party as to the appropriate level of fine beyond the level of MO's income. He was fined £14,000 in his last disciplinary matter. We decided the appropriate fine to pay for this breach is £21,000.

97. MO shall be made subject to an education programme, the details of which will be provided by the FA.

98. The FA made an application for the costs of the Regulatory Commission which was not opposed. We therefore direct that MO will pay the costs of the Regulatory Commission.

Philip Evans KC (Chair)

Preeya Sahni

Udo Onwere

13 November 2025.