

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

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**DAVID STANDING (APPELLANT)**

-v-

**SUSSEX FA (RESPONDENT)**

**INTRODUCTION**

1. These are written reasons for the findings of an appeal board (the “Appeal Board”) which met via videoconference (Microsoft Teams) on Thursday 20<sup>th</sup> March 2025. The Appeal Board considered an appeal brought by David Standing (DS) of Crew Club Hawks Athletic (Club Hawks) against a decision of the Sussex Football Association (“Sussex FA”).
2. The Appeal Board, all members of the FA’s Appeals Panel, was Anthony Rock (Chair), Daniel Mole and Paul Tompkins.
3. The Appeal Board was assisted by Conrad Gibbons of FA Judicial Services acting as secretary to the Appeal Board.
4. The Appellant elected for the appeal to be heard on papers only.
5. This is the decision and written reasons of the Appeal Board. 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 Appeal Board carefully considered all the evidence and submissions made in this case. Following notification of the Appeal Board’s findings, published on Friday 21<sup>st</sup> March 2025, written reasons were requested by the Appellant.

**BACKGROUND FACTS**

6. On 8<sup>th</sup> January 2025, Sussex FA charged the Appellant with misconduct for a breach of FA Rule E3 - Improper Conduct against a Match Official (including abusive language/behaviour). The charge relates to a game (“the match/game”) played between Club Hawks and Bison Beer First on the 29<sup>th</sup> December 2024 (Sussex FA Case ID: 12033308M).
7. The basis of the charge was that immediately after the game, the Appellant, a registered player with Club Hawks, said ‘*fucking travesty*’ towards the referee, twice, or similar, which is improper pursuant to FA Rule E3.1. On 21<sup>st</sup> January 2025 the Appellant pleaded not guilty to the charge and requested that his case be considered by correspondence. On 13<sup>th</sup> February 2025, a commission of

the Southern Region Disciplinary Panel (the “Disciplinary Commission”), sat to consider the charge.

8. The Disciplinary Commission found the charge proven and determined that the Appellant be suspended from all football activities for a period of one match and fined twenty five pounds (£25). The Commission’s decision was published by Sussex FA on 13<sup>th</sup> February 2025. On the same day the Appellant submitted a notice of appeal to the FA’s Judicial Services.
9. On the 27<sup>th</sup> February 2025, following an application by the Appellant to have the sanction stayed, the Judicial Panel Chair directed that the sanction be stayed pending the outcome of the appeal, and further directed that the appeal must be heard in the week commencing 17<sup>th</sup> March 2025.

#### **APPEAL GROUND/APPEAL BUNDLE**

10. The Appellant appealed the Disciplinary Commission’s findings on the single ground that they came to a decision to which no reasonable such body could have come.
11. The bundle of documents before the Appeal Board included:
  - a. Notice of Appeal.
  - b. Response to Notice of Appeal.
  - c. Papers of First Instance.
  - d. Appellant’s Offence History.
  - e. Results Letter and Written Reasons.
  - f. Sanction Stay Application and Outcome.
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, those papers can be obtained direct from the FA/Sussex FA.
13. The Appeal Board noted the following within the FA’s Disciplinary Regulations, Appeals, Non Fast Track (pages 189-193 of the FA Handbook 2024/2025):
  - a. Regulation 12: *“An appeal shall be by way of a review on documents only and shall not involve a rehearing of the evidence considered by the body appealed against. The parties shall however be entitled to make oral submissions to the Appeal Board. Oral evidence will not be permitted, except where the Appeal Board gives leave to present new evidence under paragraph 10 above.”*
  - b. Regulation 21: *“sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal”.*

### **SUBMISSION BY THE APPELLANT**

14. In his Notice of Appeal, the Appellant argues that there is no corroborative evidence to support the referee's version of events, the referee demonstrated a clear bias against both the Appellant and Club Hawks, and the Disciplinary Commission failed to take into consideration the Appellant's 5-year clean record when considering their decision.
15. The Appellant focussed on the balance of probability, questioning how a 'decision maker', given only one piece of opposing testimony (the referee's statement), could find the case proven. The Appellant argued that...., *"a decision made on the basis of one testimony alone may be problematic unless the testimony is particularly strong, credible or corroborated by other evidence. In this case it was established that the extraordinary incident report provided was inconsistent, incorrect, extremely weak and backed up with zero evidence whatsoever. There is no other evidence, such as physical evidence or corroborating testimony, relying solely on one testimony by the referee could be seen as weak and inadequate"*.
16. The Appellant also made specific reference to the perceived bias by the referee against both him and the Club....*"the inconsistencies in the extra incident report have been highlighted and proven repeatedly in Crew Club Hawk's response to the misconduct case which establishes a clear bias against David Standing and Crew Club Hawks Athletic, provided as part of the misconduct case response. The decision makers did not take this into consideration when making their decision. The decision makers however did consider Mr Standings 5-year clean disciplinary record when deciding sanctions but evidently did not apply the same supporting evidence when deciding the probability of Mr Standing committing the alleged offence"*.
17. The Appellant stated that he did not say the words, *"fucking travesty"* but does admit saying *"what a travesty"*. He claims those words were used in reference to the fact that a team mate tragically ended up in A&E due to a clash of heads during the game. The Appellant also made reference to the fact that the referee retracted his original discriminatory allegation relating to the alleged words used.
18. In his submission, the Appellant concluded that the referee, *"has been consistently inconsistent, mistaken and unreliable with the evidence provided, he has a clear bias against Crew Club Hawks for submitting a complaint against him. The decision makers have not been reasonable with their decision making and for these reasons the appeal should be successful...."*.

### **SUBMISSION BY THE RESPONDENT**

19. The Appeal Board considered the Respondent's response to the notice of appeal as well as the written reasons as to how the decision had been reached. The Respondent highlighted that there is no contradiction in the referee's observations. The referee clearly stated being called a '*travesty*' in both his reports. In his own first language (not English), the referee initially said that this was a discriminatory comment. After investigation, it was deemed that the comment was not discriminatory, but that use of the words '*fucking travesty*', aimed at the referee, did constitute improper conduct. For that reason, Sussex FA raised a non-aggravated charge against the Appellant.
20. The Respondent argued that...*"it is not mandatory for the investigator to obtain observations from other parties, but just to ensure sufficient evidence in support of the charge. Therefore, the balance of probability is not determined solely on the weight of evidence"*. The Respondent also made reference to the Appellant's use of the words, '*Wednesbury Unreasonableness*' in their Notice of Appeal. The Respondent stated that such a term is associated with a Court of Law, but is not something that is included in the FA's Regulations.
21. In direct response to the Appellant's accusations of the referee being bias against both the Club and the Appellant, the Respondent said that such accusations are unsupported and inadmissible. In their submission they state there is no proof or evidence to support such an accusation. In regard to the Appellant's disciplinary record, the Respondent argues that the Appellant's history was considered and was deemed by the Disciplinary Commission to be a strong mitigating factor.

#### **LEGAL TEST FOR GROUND OF APPEAL/ROLE OF THE APPEAL BOARD**

22. As stated in Regulation 12 of the Non- Fast Track Appeal Regulations, the task of the Appeal Board is to conduct a review of the Disciplinary Commission's decision. It is not a new hearing or an opportunity to consider the matter afresh. Guidance on how this review should be carried out is to be found in:
- The FA v Bradley Wood, 20 June 2018, which states: *"when considering evidential assessments, factual findings and the exercise of a judicial discretion in the context of an appeal by way of review, a Commission must be accorded a significant margin of appreciation. Accordingly, such evidential assessments and factual findings should only be disturbed if they are clearly wrong or wrong principles have been applied. That threshold is high and deliberately so. When assessing whether a sanction is unreasonable the same margin of appreciation applies. It is not for the Appeal Board to substitute its own opinion or sanction unless it finds that the Commission's decision was unreasonable."*

23. When deliberating on their findings the Appeal Board applied the following principles in its approach to the ground(s) of appeal:
- a. An appeal such as this proceeds by way of a review of the decision of the Respondent/Disciplinary Commission. It is not a rehearing of the evidence and arguments at first instance.
  - b. It is not open to the Appeal Board to substitute their decision for that of the Disciplinary Commission simply because the Appeal Board might themselves have reached a different decision. If the Disciplinary 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 Disciplinary Commission. Evidential assessments should only be interfered with if they are clearly wrong or if the wrong legal principles were applied to the making of those factual findings.
  - d. Any Appellant who pursues an appeal on the ground that a Regulatory/Disciplinary Commission has come to a decision to which no reasonable such body could have come has a high hurdle to clear or a high threshold to pass.

#### **DELIBERATIONS/FINDINGS OF THE APPEAL BOARD**

24. In accordance with the principles set out above, the Appeal Board considered all the parties' submissions.
25. Given some inconsistencies in the referee's reports (his initial report and his follow up report to Sport Integrity Matters) and the retraction of any suggestion of the use of aggravated language, the Appeal Board considered at some length if there was sufficient evidence to charge the Appellant with improper conduct. The referee reported hearing a number of inappropriate/offensive comments but failed to take appropriate action. The Appellant accepted using the words '*what a travesty*' but denied using the words, '*fucking travesty*'.
26. In regard to the Disciplinary Commission not taking into account the Appellant's disciplinary record when '*weighing*' up the probability of the charge being found proven, the Appeal Board noted that the Disciplinary Commission would not have been aware of the Appellant's record until after they had concluded their findings of proven/not proven. When considering the totality of evidence available, the Appeal Board determined that there was sufficient evidence for Sussex FA to raise the charge against the Appellant.

27. Applying the test often referenced in these cases (Associated Provincial Picture Houses Ltd v Wednesbury Corporation), the Appeal Board determined that the Disciplinary Commission had considered the evidence available to them at the time and had come to a decision that they were entitled to make.

### **OUTCOME**

28. The Appeal Board determined that:

- a. The appeal is unanimously dismissed.
- b. The original sanction imposed by the Disciplinary Commission is to be reinstated with immediate effect.
- c. There is no order as to costs.
- d. The appeal fee is to be forfeited.

29. The Appeal Board's decision is final and binding on all parties, and there is no right of further challenge.

Anthony Rock (Chair)  
Daniel Mole  
Paul Tompkins

Tuesday 25<sup>th</sup> March 2025