

Ennio Gonnella (the Appellant) and Surrey FA (the Respondent)

Appeal hearing on 5 March 2025

In attendance:

Ennio Gonnella - Appellant

Kelly Waters – observer

Richard Garland – Surrey County FA

Decision: We have decided to dismiss the appeal. Our reasons are below.

1. Summary of background

- 1.1. The Respondent, on 17 December 2024, charged the Appellant with a breach of FA Rule E3 – Improper conduct (including violent conduct and threatening and/or abusive language / behaviour). The charge was denied, and the Appellant requested the matter was dealt with on the papers. The disciplinary commission was provided with a bundle of documents including a short video clip of the incident. No other statements on behalf of the Appellant were included in the documents sent to the disciplinary commission. Kelly Waters, the club chairman confirmed he was served with the bundle and that he had read it.
- 1.2. Mr Waters said he uploaded onto the Whole Game System (WGS) the video clip and a short one paragraph statement from the Appellant giving his reasons for denying the charge.
- 1.3. Richard Garland, on behalf of the Respondent, said the video clip and Appellant's statement were not on the WGS. However, the video clip was included in the bundle sent to the disciplinary commission. During the appeal hearing Mr Garland made an enquiry and said the video clip was sent by an administrative assistant in a separate email to the disciplinary commission. We asked Mr Garland to clarify how and when this clip was received by the Respondent. On 6 March 2025, we were informed by the panel secretary that the video clip was received by the Respondent in an email from the Appellant on 4 February 2025.
- 1.4. Mr Waters said he did not question the absence of the Appellant's statement from the bundle of documents. He did not know what the process was, he would not have known what was missing from the bundle or what should have been included in it.

The decision of the disciplinary commission

- 1.5. In a decision letter dated 10 February 2025, the disciplinary commission found the charge proven and imposed a four-match suspension from all footballing activity and a £100.00 fine on the Appellant. It also imposed eight club penalty points. They provided written reasons for their decision on 12 February 2025.

- 1.6. We considered whether the disciplinary commission had proceeded fairly in the absence of the short one paragraph statement from the Appellant. However, we were not convinced that a short statement was prepared. Our reasons are:
- 1.6.1. The football services officer at Surrey FA liaised with the Appellant to set up the hearing. The Appellant was asked to confirm that he had received the paperwork relating to the hearing. On 31 January 2025 the Appellant confirmed he had read and understood the disciplinary attachments.
- 1.6.2. On 4 February 2025 it is reasonable to presume that the Appellant noted the video clip was missing because he sent an email asking whether the video evidence was on the file. The football services officer confirmed that the video clip was not in her possession. The Appellant provided this clip on the same day.
- 1.6.3. No reference was made by the Appellant to a statement. He made no enquiry about whether it had been received by the football services officer.
- 1.7. We did not consider that it was unfair for the disciplinary commission to have proceeded with deciding the case. Neither they nor the Respondent were aware of a possible missing statement. The bundle was sent to the club. Mr Waters said he received and read it. It was incumbent on him/the club to ensure all relevant information and evidence they wished to rely on was included in the bundle. In any event, we have considered the full submissions of the Appellant during the appeal.

2. The appeal

- 2.1 The Appellant appealed the decision on 17 February 2025 on the grounds that i) the disciplinary commission came to a decision to which no reasonable such body could have come and ii) imposed a penalty, award, order or sanction that was excessive.
- 2.2 The written representations however do not address the first ground, and no submissions were made by the Appellant at the hearing. The Appellant focused his written and oral representations on the sanction being excessive. He did not accept he kicked the player as described by the assistant referee. He tackled the player and delayed the re-start of the game. He said he should not have tackled the player and that he gave someone a reason to think that he had kicked a player.

The appeal bundle

- 2.3 The Appellant said he did not receive the appeal bundle consisting of 48 pages. Mr Waters confirmed he had received it. However, he did not ask the Appellant whether he had received it.
- 2.4 On enquiry, the panel secretary confirmed that the appeal bundle was sent to Mr Waters and the Appellant under cover of the same email on 21 February 2025 at 16.30. It was sent by Judicial Services and followed a trail of emails sent that day. The Appellant said he had received several emails from Judicial Services on 21 February but not one at 16.30. He had received all other emails.
- 2.5 We noted that the Appellant may not have scrolled down the lengthy email exchanges between him, the club and Judicial Services to locate the bundle. It seems implausible that the Appellant would have received all other emails but not one including the bundle, especially as Mr Waters had received the same email. It appeared from his submissions

that the Appellant was aware of the details of the allegation as he denied kicking the player and said he did not agree with the statement of the referee.

- 2.6 We note that the club submitted the appeal on behalf of the Appellant. Mr Waters, on behalf of the club was aware of the content of the allegations against the Appellant and confirmed that he had received and read both the first bundle and the appeal bundle. The Appellant was given a full opportunity to present his appeal and both he and Mr Waters (who was an observer) made representations and answered our questions.
- 2.7 Given the above, we considered it fair to proceed with the hearing.

3. Reasons

- 3.1 We considered the submissions of the parties and gave all relevant matters careful consideration. As the Appellant did not provide oral submissions in relation to the first ground of appeal, we did not consider this further. Having only received submissions on the second ground of appeal, we dismissed the appeal based on a majority decision.
- 3.2 The reasons for the majority decision were:
- i) We reminded ourselves that we were reviewing the decision of the disciplinary commission. This means that we should only interfere with it if it falls outside the bounds of reasonable decision making. We are not considering the matter afresh and we cannot substitute our own decision for that of the disciplinary commission just because we may disagree with it.
 - ii) We note that the disciplinary commission did not give detailed reasoning for reaching the conclusion that the conduct fell within the medium sanction range. However, it did consider the conduct was improper and found that the Appellant had 'kicked out' at a player. The disciplinary commission correctly considered the previous history of the Appellant and noted that he had one previous misconduct charge proven. This was relatively recent; the conduct having taken place on 3 September 2024. The Appellant was banned for four games and fined £85.
 - iii) No mitigating factors were identified by the disciplinary commission. In light of the findings and on review we do not identify any mitigating factors that would have reduced the sanction from four matches. The Appellant denied the charge. Based on the recent disciplinary history, it was reasonable for the disciplinary commission to impose the sanction of four matches. We do not identify any reason to interfere with its decision.

Reasons for finding the sanction was excessive

- 3.3 One appeal board member found that the disciplinary commission decision on sanction was excessive for the following reasons:
- I. On the balance of probability, it was felt that the email containing the bundle of documents was received by Ennio Gonnella. However, it was felt that there was no reason to dispute his evidence that he had not read the bundle and therefore this was a valid reason why he did not raise any issues regarding his missing statement prior to the appeal. In the appeal, he stated that although a minor altercation had taken place, it did not warrant a dismissal for violent conduct, and it was felt that this statement from the Appellant was credible.

- 3.4 By a majority, the appeal is dismissed. The original sanction returns to take effect on notification of the decision, issued 7 March 2025.
- 3.5 There is no order as to costs and the appeal fee is forfeited.
- 3.6 Our decision is final and binding on all parties.

Miss N Zulfiqar (Chair and independent member)
Mr G Fee (Independent member)
Major B Thomson (Independent member)

7 March 2025