

IN THE MATTER OF A FOOTBALL ASSOCIATION INDEPENDENT REGULATORY COMMISSION BETWEEN THE FOOTBALL ASSOCIATION AND MR JHON DURAN

INTRODUCTION

1. These are the written reasons for a decision made by an Independent Regulatory Commission (the "Commission") following a charge brought by The Football Association ("The FA") against Jhon Duran ("JD"), player of Aston Villa FC.

2. The Commission sat via video conference on Wednesday, 8 January 2025. The Commission members were Michael O'Brien (Chair), Alan Hardy and Peter Fletcher.

3. Michael O'Connor, a member of The FA Judicial Services Department, acted as Secretary to the Commission.

THE CHARGE

4. By letter dated 30 December 2024, JD was charged with a breach of FA Rule E3.1 in respect of an incident that occurred during the Newcastle United FC v Aston Villa FC fixture on 26 December 2024 (the "Fixture"). It was alleged that in or around the 32nd minute of the fixture, following JD's dismissal, he acted in an improper manner.

5. The FA designated the matter as a Non-Standard Case due to the incident having occurred outside the jurisdiction of the Match Officials.

6. FA Rule E3.1 states that:

"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."

REPLY TO THE CHARGE

7. On 31 December 2024, JD admitted the Charge and requested that the matter be dealt with by way of a paper hearing (the "Hearing"). As such, the only matter to be determined by the Commission was the imposition of an appropriate and proportionate sanction given all the circumstances.

EVIDENCE

8. The Commission were provided with a set of papers (the "Papers") that included:

FA Charge Letter

a. Extraordinary Incident Report Form of the Match Referee, Mr A Taylor, dated 26 December 2024;

b. Extraordinary Incident Report Form of the Fourth Official, Mr L Doughty, dated 27 December 2024;

Reply Documentation

- c. Reply Form – JD – dated 31 December 2024;
- d. Statement – JD – dated 31 December 2024;
- e. Statement - Aston Villa FC – dated 31 December 2024.

9. The Commission were provided with several video clips showing the incident from multiple angles. JD is shown to kick what is assumed to be a plastic bottle in frustration. The bottle travels approximately 30 – 40 yards on to the pitch. The bottle does not strike anybody, although team mates and opponents are not far from the trajectory and landing point of the bottle.

HEARING

10. The foregoing is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these written reasons of any particular point or submission should not imply that the Commission did not take such point or submission into consideration when determining the matter. For the avoidance of doubt, the Commission carefully considered all of the evidence and materials provided with regard to this case.

11. The Commission proceeded on the basis of the admission of the Charge by JD. Therefore, the Commission were only required to determine an appropriate and proportionate sanction given all the circumstances. As the matter had been designated as a Non-Standard Case, the Commission had discretion to impose any such penalty that it considered appropriate.

12. The Commission were informed that JD has not had any previous breaches of Rule E3.1. The Commission noted that JD has in fact only been registered in England for less than two years.

13. The Commission discussed the incident and noted that the water bottle was kicked in frustration with some ferocity causing it to travel a significant distance. The Commission noted that the fact that the bottle did not strike anybody appeared to be attributable to luck rather than judgement. The Commission noted that the incident happened in the aftermath of a controversial red card, whereby Match Officials were seemingly required to assess whether the actions of JD, in standing on an opponent, were intentional or otherwise.

14. The Commission noted that within the document 'Essential Information for Managers, Owners & Directors 2024/25', specifically within the section on 'technical area cautions', the following misdemeanour is listed as an offence which would ordinarily give rise to a caution - *Kicking or throwing water bottles, coats or other similar objects in an obvious show of dissent*. The Commission took this section as being typically aimed at managers and found that managers would ordinarily be held to at least the same standard, if not higher, than players. This is not to suggest that every such incident should be considered as a cautionable offence. However, in the view of The Commission, an incident would have to be seen as being particularly serious to elevate it above this level. The Commission assessed that the incident in question was not a low level offence, nor was it considered to be a particularly serious offence. It sat somewhere in between the two and would probably have been escalated in the eyes of The Commission had it hit somebody or travelled particularly close to somebody.

15. The Commission considered the following as aggravating factors:
a. The incident could have caused injury to somebody

b. The incident was seen by a large TV audience in view of a full stadium

16. The Commission considered the following as mitigating factors:

- a. JD's admission of the Charge;
- b. JD's statement, in which he accepted that his conduct was unacceptable and apologised for his conduct; and
- c. JD's previous good disciplinary record.

17. Whilst The Commission made no judgment as to whether or not the red card was warranted, The Commission noted that there existed a possibility that JD had not intended to step on his opponent in taking the action that caused the red card to be issued. The Commission took into account the fact that, if indeed this action was unintentional, the issuing of a red card would be a source of significant frustration. This would not excuse the action JD took, but would constitute a further mitigating factor if it were so.

SANCTION

18. The Commission debated for some time whether a sporting sanction for JD would be appropriate. Ultimately, The Commission determined that with all of the factors considered, a sporting sanction would be too severe. It was determined that a significant financial sanction would be more appropriate.

19. For the reasons set out above, the Commission unanimously agreed to impose the following sanction on JD:

- a. a fine in the sum of £15,000.

20. This decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Michael O'Brien (Chair)

Alan Hardy

Peter Fletcher

8 January 2025