

IN THE MATTER OF A REGULATORY COMMISSION

BETWEEN

THE FOOTBALL ASSOCIATION

AND

MATHEUS CUNHA

WRITTEN REASONS OF THE REGULATORY COMMISSION

Regulatory Commission: Sally Davenport (Chair) – Independent Legal Panel Member

Bradley Pritchard – Independent Football Panel Member

Stuart Ripley – Independent Football Panel Member

Secretary: Paddy McCormack – Judicial Services Manager

Date: 30 December 2024

Venue: Held remotely via Microsoft Teams

Introduction

1. These are the written reasons of the Regulatory Commission that considered the charge against Matheus Cunha (“MC”). MC plays for Wolverhampton Wanderers Football Club (“WWFC”).
2. By letter dated 16 December 2024 (“the Charge Letter”), The Football Association (“The FA”) charged MC with misconduct amounting to a breach of FA rule E3.1 (“the Charge”). The Charge arose out of a Premier League match between WWFC

and Ipswich Town FC (“ITFC”) that was played on 14 December 2024 (“the Match”).

Relevant Rule

3. FA 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.”

The Charge

4. The FA charged MC with a breach of FA Rule E3.1 on the ground that he acted in an improper manner. The FA designated it a Non-Standard Case due to the unusual nature of the reported misconduct.
5. The Charge related to an incident (“the Incident”) after the final whistle in which MC elbowed a member of the ITFC security staff, [REDACTED], and then knocked his glasses from his face, causing them to break.
6. Along with the Charge Letter, The FA sent MC an extraordinary incident report (“the Report”) from the referee, Simon Hooper (“the Referee”), a statement from [REDACTED] (“N”), [REDACTED] at ITFC, and video clips of the Match.

Response from MC

7. On 23 December 2024 MC submitted a Disciplinary Proceedings Reply Form. He admitted the charge against him. He did not request a personal hearing. The following documentation was also submitted:

- A witness statement from MC

- A witness statement from Steve Sutton, Facilities Safety and Security Director at WWFC
- A seven-page letter from Matt Wild, Director of Football Operations and Administration at WWFC, making submissions on behalf of MC
- A handwritten letter of apology from MC to ■■■■
- Email exchanges between WWFC and ITFC regarding the apology and the reimbursement of the cost of replacement glasses for ■■■■, along with supporting documentation

The Hearing

8. In advance of the hearing the Commission read the documents referred to in paragraphs 2, 6 and 7 above and viewed the video footage provided by The FA.
9. Given that the Charge was accepted, the Commission treated it as proven and reviewed the evidence and submissions purely in order to determine sanction, as set out below.
10. The following paragraphs summarise the evidence and written submissions considered by the Commission. They do not purport to cover all the points made. However, the absence of a point or submission in these reasons should not imply that the Commission did not take that point or submission into account when determining the sanction.

The FA's Evidence

11. The Referee did not witness the Incident. He reported that ■■■■N had made him aware of an alleged incident between MC and ■■■■ and appended the statement from ■■■■N to his Report.
12. ■■■■N stated that he had witnessed MC either elbowing or shoving ■■■■ and that he had then “*snatched [sic] his face and broke his glasses*”.

13. The Commission was provided with three video clips showing the Incident.

MC's Evidence

14. In his witness statement MC apologised unreservedly to ■■■, saying that the Incident was out of character for him. He stated that the Incident was not intentional or pre-meditated. WWFC had conceded a late goal and at the final whistle he had sat on the pitch in disbelief. He had seen a team-mate Rayan Ait-Nouri surrounded by a large number of ITFC security guards for no apparent reason and had rushed over to help him. He then described the Incident in the following terms:

“As I tried to get closer to Rayan to make sure he was okay, I was suddenly surrounded by a lot of people. I felt like I was being shoved by the ITFC security personnel, so I shoved them back in an effort to break away from them to protect myself. It was never my intention to come into contact with Mr. ■■■ and I certainly never meant to elbow him. I simply wanted to push him away from Rayan. Then all of a sudden, I remember Mr. ■■■ turned round and had his hands on my shirt, and I shouted “stop” but he kept hold of my shirt.

Mr. ■■■ is much bigger than me and I was surrounded by a large number of people, mainly ITFC personnel, so I remember feeling quite threatened at the time. So in an effort to get Mr. ■■■ to let go of my shirt, in the heat of the moment I regrettably reached out and grabbed his glasses. I know it was wrong to do this and I take full responsibility for my actions.”

15. SS stated in his witness statement that he had not been in close proximity to the Incident and his comments on it were based on his review of the video footage. His witness statement focused mainly on the number of ITFC personnel on the pitch and how this appeared to have aggravated the situation. He also detailed his subsequent contact with the Premier League about the issue and the response from the Premier League in issuing guidance to clubs.

MC's submissions

16. By way of mitigation on MC's behalf, WWFC's letter pointed to his early admission of the Charge, his apology and the fact that he had offered to pay for replacement glasses. It referred to his good character and his clean disciplinary

record. It was submitted that the impact on █████ had been minor, limited only to damage to his glasses.

17. In terms of the sanction, the letter reminded the Commission that it must act “*reasonably, proportionately and consistently with the decisions of previous Regulatory Commissions to ensure a fairness of approach*”. WWFC submitted that it would not be reasonable or proportionate to include any deterrent element in the sanction. It submitted that the sporting sanction should be no greater than the Standard Penalty 1 (ie a one-match suspension).
18. The letter referred to a number of previous cases, specifically *The FA v Cristiano Ronaldo* (2022), *The FA v Marco Silva and Alexander Mitrovic* (2023), *The FA v Chris Powell and Derek Adams* (2018) and *The FA v Victor Menas* (2023) in support of the submission that a one-match ban would be appropriate.

The FA’s submissions

19. The FA submitted that the appropriate sanction must be a significant sporting sanction and financial penalty, as MC’s actions were highly improper. It disagreed with WWFC’s submission regarding deterrence, saying that deterrence is a very important factor and a legitimate sanctioning aim.
20. The FA submitted that the cases referred to by WWFC were of limited assistance and were readily distinguishable from the case before the Commission. It reminded the Commission of the comments on previous decisions in *Wilfred Zaha v The FA* (2019):

“ the task for the Regulatory Commission was [...] not to ask where within the range of previous cases this case ‘slotted in’. The task for the Regulatory Commission was to decide what sanction was necessary and proportionate to reflect the circumstances of this particular case as a whole.”

21. The FA accepted that MC had admitted the Charge, but said that only limited credit should be given for the admission, given that he could hardly deny it in light of the clear video evidence of the Incident. It acknowledged MC’s clean disciplinary

record. It submitted that it would be so unduly lenient as to be unreasonable to impose a sanction equivalent to Standard Penalty 1 and that a reasonable and proportionate sanction would be an immediate three-match suspension and a significant financial penalty. It accepted that the remorse shown, coupled with the early admission and good disciplinary record, might justify a discount to an immediate two-match suspension and a slightly reduced financial penalty.

Sanction

22. As the breach of Rule E3.1 was admitted by MC, the Commission considered the comments and submissions made by the parties in the context of its decision on sanction. Before the Commission deliberated on the appropriate sanction, it was advised that MC had no previous misconduct charges on his record.
23. Having repeatedly viewed the video footage, the Commission did not accept MC's version of events, as quoted in paragraph 14 above. It noted that there were a number of individuals on the pitch, although it was not possible to determine their roles and clubs in every instance. However, it did not see any provocation from ITFC personnel that would have caused MC to behave as he did. In particular, ■■■ appeared calm and was simply standing on the pitch with his arms out to act as a barrier to those behind him. Understandably ■■■ turned round when he felt MC's elbow on him, and indeed put his hand on MC, but he did not appear aggressive at this point and the Commission could see no justification for MC's action in touching his face and removing his glasses. The Commission noted that MC had to be restrained and led away by WWFC staff/teammates.
24. The Commission unanimously agreed with The FA that this was a serious case. MC had elbowed ■■■ and then pulled off his glasses. The absence of provocation was a clear aggravating factor. It did not accept WWFC's submission that there had been little harm to ■■■. Absent any statement from ■■■ himself, that was pure speculation. The Incident had taken place in full view of the supporters and had been broadcast to millions of viewers, which may well have affected ■■■.

25. The Commission had read the previous decisions to which it had been referred. It did not consider that any of the decisions cited by WWFC were directly comparable to the case before it, agreeing with the Appeal Board's observation in *Wilfred Zaha v The FA* (2019) that it was not terribly helpful to ask whether the conduct was more serious or less serious than other types of conduct in other cases. Taking into account the factors that it had identified, and looking at the case in the round, the Commission rejected the submission from MC that a one-match ban, in line with Standard Penalty 1, would suffice. It decided that its starting point should be a three-match suspension to reflect the seriousness of the offence.
26. The Commission agreed that MC's acceptance of the Charge, his prompt personal apology to █████ (which it found to be sincere), the offer to pay for new glasses and his clean disciplinary record, were mitigating factors. It did not accept WWFC's argument that it should take account of the fact that the ITFC security personnel were overly aggressive and contributed to the atmosphere of hostility. Even if that were the case, which the Commission did not accept, it did not amount to mitigation for MC's actions. Taking all of these factors into account, the Commission decided to reduce the suspension by one match. It ordered that MC be suspended immediately from all domestic club football until WWFC has completed two first-team competitive matches in approved competitions.
27. The Commission unanimously agreed that a significant financial penalty was also appropriate, given the serious nature of the Incident. It initially considered that a fine of £120,000 would be commensurate with the offence. However, it took account of the mitigating factors referred to in paragraph 26 above and, having done so, decided to apply a similar "discount" to that applied to the sporting sanction. It concluded that a fine of £80,000 would be appropriate.
28. The decisions of this Commission may be appealed in accordance with the applicable Regulations.

Sally Davenport
Bradley Pritchard
Stuart Ripley

3 January 2025