

NON-PERSONAL HEARING

THE FOOTBALL ASSOCIATION

and

Mr GABRIEL ODUNAIKE
Walton Casuals FC

THE DECISION AND REASONS
OF THE FA REGULATORY COMMISSION

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Introduction

1. On 27 December 2014, Walton Casuals FC (“Walton Casuals”, the “Club”) played an Isthmian League Division 1 South away fixture against Walton & Hershams FC (“Walton & Hershams”), with a kick-off time of 3pm – (collectively “the match”).
2. The appointed Referee was Mr Paul Johnson and Mr Richard Letheren was one of the Assistant Referees. Mr John Davies was also in attendance at the match as the Assessor.
3. Mr Johnson, the Referee, reported that he dismissed Mr Gabriel Odunaïke, a player of Walton Casuals, from the field of play at the 80th minute of the match for violent conduct. It was further reported that Mr Odunaïke reacted to this decision and his subsequent conduct was improper.

The Charge

4. On 31 December 2014, The Football Association (“The FA”) charged Mr Odunaïke with misconduct for the following two breaches of FA Rule E3 (the “Charge”).
 - 4.1. It was alleged that Mr Odunaïke’s behaviour after his dismissal in or around 80th minute when he made physical contact with the Referee by moving his head towards the Referee’s head, as evidenced in the report and video clip, amounted to improper conduct; and
 - 4.2. It was further alleged that Mr Odunaïke’s behaviour when he refused to leave the field of play and attempted several times to move in an aggressive manner towards the Referee, as evidenced in the report and video clip, amounted to improper conduct.
5. The FA designated this case as a Non Standard Case due to:
 - 5.1. the alleged incident occurred outside of the jurisdiction of the Match Official;

- 5.2. the level of aggression demonstrated in the reported behaviour;
 - 5.3. the threatening nature of the reported behaviour; and
 - 5.4. the serious and/or unusual nature of the reported behaviour.
6. The FA enclosed, the following evidence that it intended to rely on:
- 6.1. Report of the Match Referee, Mr Paul Johnson, dated 27 December 2014;
 - 6.2. Report of the Assistant Referee, Mr Richard Letheren, dated 02 January 2015;
 - 6.3. Report of the Assessor, Mr John Davies, dated 02 January 2015; and
 - 6.4. A video clip of the incident (viewable via the link sent to the Club).
- The items 6.2 and 6.3 were sent by The FA to Mr Odunaïke on 05 January 2015.
7. Mr Odunaïke was required to reply to the Charge by 07 January 2015.

The Reply

8. On 06 January 2015, Mr Odunaïke responded by admitting to the Charge, did not request an opportunity to attend a Commission for a personal hearing, and elected the option to deal with his case at a paper hearing on the content of the documents served on him and any documentation he supplied to The FA (the “Reply”).
9. Mr Odunaïke did not submit any explanations or statements with his Reply.

The FA Rule

10. The FA Rule E3 states:

“(1) A participant shall at all times act in the best interest 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 Regulatory Commission

11. The following members were appointed to the Regulatory Commission (“the Commission”, “We/us”) to hear this case:

Mr Thura KT Win, JP (Chairman);

Mrs Elaine Oram;

Mr Peter Powell; and

Mr Robert Marsh, The FA Judicial Services Manager, acted as Secretary to the Commission.

The Hearing

12. We convened at 10am on 09 January 2015 by videoconference for this Non-Personal / Paper Hearing (the “Hearing”).

13. We had read the bundle of documents prior to the Hearing.

14. Mr Johnson, the Referee, reported the following (we quote):

“Following his sending off for Violent Conduct in the 80th min, Mr Odunaike was guilty of two further offences before he actually left the field of play:

- 1. In the immediate aftermath of his sending off, he rushed at me, stopping less than a foot in front of me, screaming at me and striking me on the head with his head in what I deemed a clear act of aggression. Only the intervention of players from both sides stopped this from escalating further*
- 2. Mr Odunaike then refused to leave the field of play and he tried aggressively rush at me – players from both sides intervening to stop him on each occasion. He attempted this 5 times before finally being removed from the field of play some 2 minutes after having initially been shown the red card”*

15. Mr Letheren, the Assistant Referee, reported the following (we quote):

“In the 80th minute of this game Mr Odunaike, Player of Walton Casuals FC, was dismissed from the field of play by referee Mr Johnson.

After being shown the red card Mr Odunaike, Player of Walton Casuals FC, reacted by thrusting his head into Mr Paul Johnson’s head. I was approximately 20 meters from the situation and had a clear and unobstructed view of the incident.

Mr Odunaike, Player of Walton Casuals FC, then proceeded to chase Mr Johnson in an aggressive manner and was restrained by players from both Walton and Hersham and Walton Casuals who managed to get the offending player to leave the field of play.”

16. Mr Davies, the Assessor, described the incident leading up to Mr Odunaike’s dismissal, some Walton Casuals player were attempting to form a barrier from Mr Odunaike, he did not see any contact between Mr Johnson and Mr Odunaike or any obvious sign of injury to Mr Johnson.
17. We viewed the video clip in support of the Charge multiple times.
18. Whilst we did not see the actual head-to-head contact between Mr Odunaike and Mr Johnson, as there was another Walton Casuals player in our line of sight, we saw Mr Odunaike moved towards Mr Johnson with his face forward and caused Mr Johnson to take an involuntary step back.
19. The other Walton Casuals player present reacted immediately by pushing Mr Odunaike backwards, away from Mr Johnson, and got in between Mr Odunaike and Mr Johnson. Mr Odunaike was then pushing this player, his teammate, repeatedly and tried to move towards Mr Johnson. Some Walton & Hersham players came to the assistance of the Walton Casuals player and they too were also trying to stop Mr Odunaike’s attempts to reach Mr Johnson.
20. Mr Odunaike then moved in a circular direction, trying to move away from the players who were stopping his movement towards Mr Johnson and at times he was running, and repeatedly trying to move in the direction of Mr Johnson. At one stage there were some five or six Walton & Hersham players and four Walton Casuals players who were trying to stop Mr Odunaike’s repeated

attempts at trying to move in the direction of Mr Johnson.

21. Mr Odunaïke was “shaking off” physical restraints and “persuasions” by his teammates, including from a player who appeared to be his team’s captain.
22. We noted that, other than his admission to the Charge and accepting the evidence in support of the Charge by ticking the appropriate box on the Reply Form, there were no explanations or submissions from Mr Odunaïke. We also noted that Mr Schofield, the Club Secretary, had completed and signed the Reply Form stating, “Signed on behalf of Mr G Odunaïke with his consent”.

The Burden of Proof

23. The applicable stand of proof required for this case is the civil standard of the balance of probability.

Our Findings

24. We noted that Mr Odunaïke had made an admission to the Charge without any observations, comments or submissions and selected a Non-Personal Hearing.
25. From the evidence in support of the Charge, including the video clip, and not having any representations from Mr Odunaïke, we found the two breaches of FA Rule E3 as alleged and detailed in the Charge (in para 4.1 and 4.2).
26. We also agreed that, as part of the reasons stated by The FA for designating this case as Non Standard (in para 5.2 and 5.3), the level of aggression shown by Mr Odunaïke was high and the behaviour he demonstrated was threatening.
27. We considered the nature and seriousness of the offence to be very high.

Previous Disciplinary Record

28. Mr Marsh informed us that Mr Odunaïke has no previous relevant disciplinary record.

Mitigation

29. We received no submissions from Mr Odunaiké.

The Sanction

30. We reminded ourselves that Mr Odunaiké's conduct for his dismissal was not a matter for us and we were only dealing with his behaviour after the dismissal.

31. To Mr Odunaiké's credit, we noted that he had admitted to the Charge and he has no previous relevant disciplinary record.

32. We assessed the nature and seriousness of these two breaches of FA Rule E3 for Improper Conduct to be very high.

33. We noted that Isthmian League Division 1 South is Step 4 of National League System.

34. Mr Marsh advised that this was a Non Standard Case and there are no standard guidelines for the reported behaviour or similar cases at this level of football that we could give regard to when considering the appropriate sanction.

35. However, we noted in the Sanction Guidelines for Step 5 and below, the offence of Improper Conduct against a Match Official including physical contact, violent conduct, threatening behaviour and/or abusive language/behaviour would attract a suspension of 182 days and a fine of up to £150. And, the offence of Improper Conduct against a Match Official including threatening and/or abusive behaviour (without physical contact or violent conduct) would attract a suspension of 112 days or 12 matches and a fine of up to £100.

36. We reminded ourselves that Mr Odunaiké's admitted offence included physical contact as well as threatening nature of his repeated attempts of moving in an aggressive manner towards the Match Referee.

37. When considering the appropriate financial penalty, we noted Mr Odunaiké's declared net weekly football income.

38. After considering the nature and seriousness of Mr Odunaiké's reported behaviour, his admission to the Charge and no previous relevant disciplinary record, and having regard to the Sanction Guidelines above, we considered that

the appropriate and proportionate sanction would be a suspension of 12 matches and a fine of £100.

39. We, therefore, ordered that Mr Odunaïke be:

39.1. suspended from all domestic club football until such time as Walton Casuals have completed 12 (twelve) First Team matches in approved competitions;

39.2. fined the sum of £100 (one hundred pounds); and

39.3. warned as to his future conduct.

40. The decision is subject to the right of appeal under the relevant FA Rules and Regulations.

Signed...

Thura KT Win, JP (Chairman)

Elaine Oram

Peter Powell

09 January 2015