

NON-PERSONAL HEARING

THE FOOTBALL ASSOCIATION

and

Mr ROB DRAY

Bideford AFC

THE DECISION AND REASONS
OF THE FA REGULATORY COMMISSION

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Introduction

1. On 14 October 2014, Bideford AFC (“Bideford”, the “Club”) played St Luke’s Challenge Cup home fixture against Exeter City FC (“Exeter”) – (the “match”).
2. The appointed Referee was Mr Brett Huxtable and the Assistant Referees were Mr Antony Cloak and Mr Gary Suggate.
3. Mr Rob Dray was the Assistant Manager of Bideford at the match.
4. Mr Huxtable, the Referee, reported Mr Dray’s behaviour after the end of the match.

The Charge

5. On 18 December 2014, The Football Association (“The FA”) charged Mr Dray with misconduct for a breach of FA Rule E3.
6. It was alleged that after the end of the match, Mr Dray used abusive and/or insulting and/or threatening words and/or behaviour towards the Match Referee (the “Charge”).
7. The FA designated this case as a Non Standard Case due to the aggressive and/or threatening nature of the reported behaviour.
8. The FA enclosed, the following evidence that it intended to rely on:
 - 8.1. Report of the Match Referee, Mr Brian Huxtable, dated 14 October 2014; and
 - 8.2. EMail correspondence between the Assistant Referee, Mr Antony Cloak, and Mr Ben Marshall of The FA Regulation Department, dated 18 – 30 November 2014.
9. Mr Dray was required to reply to the Charge by 29 December 2014.

The Reply

10. There was no response to the Charge from Mr Dray.

The FA Rule

11. 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

12. 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

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

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

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

“After the above game Robert Dray assistant manager of Bideford AFC approached me and asked why I had not cautioned an opposing team player. After explaining it was a careless challenge and not reckless he remonstrated with me. He said and pointed towards me that I was ‘fucking useless and a fucking joke’. I pointed to the dressing room and asked him to leave the field of play and he told me ‘fuck off you’. I then said

'just go' he then looked at me and shouted 'who the fuck are you talking to'. I then asked him again to leave and he told me to 'fuck off'. I asked him again to leave and he then threatened me and said 'I will fucking do you in a minute who the fucking hell do you think you are'. I then asked him for his name that he failed to give me and shouted to me 'who the fucking hell are you?' I then told him I will be reporting him for misconduct he then turned and shouted at me 'I will be fucking reporting you as well so fuck off'. I waited on the field of play for the assistant manager to leave the field of play and he turned round on three occasions to tell me to fuck off your shit. I had to obtain the name of the assistant manager from a member of the club to report Mr Dray for misconduct.'

16. In response to an EMail from Mr Marshall of The FA Regulation Department, Mr Cloak, the Assistant Referee, replied as (we quote the relevant text):

"I was acting as assistant at the above game. After the game Bideford assistant manager approached Mr Huxtable the match referee. He was loud, aggressive and very disrespectful. Mr Huxtable tried to explain things but all the assistant manager wanted to do was argue and swear with phrases like you are fucking shit and after Mr Huxtable asked him to go away, his reply was I will see you after."

17. There was no response to the Charge from Mr Dray and, therefore, we did not have any plea or explanations / representations from Mr Dray.

The Burden of Proof

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

Our Findings

19. Mr Dray did not respond to the Charge and, therefore, we treated this case as a denial of the Charge and dealt with it accordingly.
20. As we did not have any information contrary to the evidence in support of the Charge, we found the Charge against Mr Dray PROVED on the burden of proof required.

21. We noted that Mr Huxtable's report had included:
 - 21.1. Mr Dray using abusive language 13 times towards Mr Huxtable;
 - 21.2. Mr Dray making a threat against Mr Huxtable;
 - 21.3. Mr Huxtable asked Mr Dray to leave the field of play four times; and
 - 21.4. Mr Dray did not give his name when asked.
22. Mr Cloak also stated that Mr Dray was loud, aggressive and very disrespectful.
23. Based on the evidence before us related to the Charge, we found that Mr Dray had used abusive language 13 times AND threatening words on one occasion, towards the Match Referee.
24. We also found that Mr Dray was aggressive AND threatening, which were the reasons The FA designated this case as a Non Standard Case.
25. We considered the nature and seriousness of the reported behaviour of Mr Dray to be very high.

Previous Disciplinary Record

26. Mr Marsh informed us that Mr Dray has three similar offences previously: in February 2010 (4-match suspension and £45 fine), March 2011 (2-match suspension and £75 fine) and August 2011 (1-match suspension and £50 fine).

Mitigation

27. There was no information from Mr Dray.

The Sanction

28. We recalled that there was no response from Mr Dray on the Charge and we had subsequently found the Charge proved.
29. Mr Marsh reminded us that this was a Non Standard Case but for a Standard Case where a breach of FA Rule E3 was denied and subsequently found proven

at this level of football (Step 3) would attract a 2-match suspension and a fine of £225.

30. However this sanction would be for abusive language, without threatening words and/or behaviour included. As Mr Dray's Charge included repeated abusive words as well as threatening words towards Mr Huxtable, we decided it would inherently increase the above standard sanction.
31. We noted that whilst Mr Dray has previous relevant disciplinary record, the last occasion was back in August 2011. We, therefore, applied an appropriate weight for this aggravating factor.
32. After considering the nature and seriousness of Mr Dray's reported behaviour, no response to the Charge and we had found it proved - with repeated abusive words, aggressive nature and threatening words against the Match Referee, this being a Non Standard Case, Mr Dray's previous relevant disciplinary record, and having regards to the standard guidelines, we considered that the appropriate and proportionate sanction would be a suspension of 4 matches and a fine of £400.
33. We, therefore, ordered that Mr Dray be:
 - 33.1. suspended from the touchline for all domestic club football until such time as Bideford have completed 4 (four) First Team matches in approved competitions;
 - 33.2. fined the sum of £400 (four hundred pounds); and
 - 33.3. warned as to his future conduct.
34. 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