

Football Association Regulatory Commission (the ‘Commission’) in the matter of a charge brought against Marvin Johnson (‘MJ’) of Sheffield Wednesday FC for a breach of FA Rule E3.

Regulatory Commission Decision

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat on 23 February 2023 by video conference.
2. The Commission members were Udo Onwere (Chairman), Francis Benali and Paul Raven, all three of whom are Independent Football Panel Members of the FA Judicial Panel.
3. Michael O’Connor, the FA Lead Judicial Services Officer, acted as Secretary to the Regulatory Commission.
4. The following is a summary of the principal submissions and evidence provided to the Commission. It does not purport to contain reference to all points made, however the absence in these reasons of any particular point, or submission, should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all the evidence and materials furnished with regard to this case.

Background

5. MJ is a player at Sheffield Wednesday FC.
6. The incident under review occurred in the EFL Football League One fixture between Ipswich Town FC v Sheffield Wednesday FC on 11 February 2023.
7. Post-match, the Referee, Geoff Eltringham submitted an incident report form. In summary, the Referee reported that *“In the 16th minute my AR1, Ian Cooper, witnessed an off the ball elbow by a Sheffield Wednesday player but at the time was unable to identify which player it was. As no other match official witnessed the incident no action was taken at the time other than the award of a penalty kick. On review of MOAS footage the player who committed the offence was No18 Marvin Johnson who would have been sent off for his actions”*.

The AR1, Ian Cooper, also submitted an incident report form where he stated, *“In the 16th minute of the game I witnessed a Sheffield Wednesday player elbow an opponent in the face in the Sheffield Wednesday’s penalty area. But at the time I could not identify the individual who had done it. On video review it is timed at 15:40 and the player responsible is Sheffield Wednesday’s No18 Marvin Johnson”*. There was also a letter dated 13 February 2023 submitted by Wes Burns of Ipswich Town FC who was the opponent involved in the incident with MJ. Wes Burns stated, inter alia, that he was deliberately elbowed in the face by MJ and, furthermore, that he was willing to appear as a witness in any FA proceedings, if so required.

8. The FA wrote to MJ on 15 February 2023 outlining that he was charged with misconduct for a breach of FA Rule E3 in respect of his behaviour in the above-named fixture. It was alleged by the FA that MJ's behaviour in or around the 16th minute was improper and/or violent conduct, in contravention of Rule E3. Furthermore, the FA designated this charge as a Non-Standard Case due to the unusual and/or violent nature of the reported misconduct.
9. MJ responded to the FA's charge by way of the standard FA Reply Documentation and a supplementary Witness Statement whereby he denied the charge. The Commission also had video evidence and photos of the incident to assist their findings.
10. MJ elected not to have a personal hearing and indicated his understanding that the charge would be dealt with at a Paper Hearing based on the content of the documents that had been served.

The Hearing

11. This was an incident where there was a coming together between MJ and his opponent Wes Burns in the penalty area. In relation to the charge at hand, the Commission viewed all of the various video evidence and remained fully focussed on the actions of MJ throughout the alleged incident.
12. Having thoroughly reviewed the video evidence, the Commission noted that it showed that MJ had made firm contact on his opponent (in or around the head area) when not challenging for the ball and, as such,

there was no clear evidence that the Referee was obviously wrong. Furthermore it was concluded, on the balance of probabilities, that this contact could not be seen as negligible. In addition to this, the Commission found the corroborating reports of the Referee and his Assistant to be persuasive. Indeed the Commission felt that it would be very difficult to conclude, on the balance of probabilities, that MJ did not make firm contact on his opponent in this particular incident.

Findings

13. In summary, the Commission concluded MJ's behaviour could reasonably be described as being improper and/or that which constituted violent conduct. As such the Commission found the FA's case was proven.

14. The decision is subject to any appeal as provided by the Regulations.

Udo Onwere

Regulatory Commission Chairman

27 February 2023

Francis Benali

Paul Raven