

DEAN BLAMIRE (Appellant)

-and-

HAMPSHIRE FA (Respondent)

Re Case 11766838M

DECISION OF THE APPEAL BOARD 9 SEPTEMBER 2024

1. The Appeal Board comprised:

Roger Burden (Chair)
Leon Bird
Tony Rock

Conrad Gibbons, FA Senior Judicial Services Officer, was Secretary to the Appeal Board

2. The Appellant was represented by Lucy Magee
3. The Respondent was represented by Debbie Sowton, its Disciplinary Manager
4. The Appeal was held online.
5. These written reasons do not purport to refer to all points made in the course of the Appeal, however, the fact that some points are not referred to should not imply that they were not considered. The Appeal Board carefully read, listened to, and considered all the submissions.

Background

6. Following a game played between Sholing (Blacks) v Moneyfields Youth on 19 May 2024, the Appellant was charged under FA Rule E3 – Improper Conduct (including threatening and/or abusive language/behaviour) as it was alleged that, the coach of Moneyfields, the Appellant, approached the Assistant Referee and started threatening him, saying “you need to shut him up or I will”, “ok, if you don’t sort him out, I’ll sort you out in the car park”, or similar.
7. The Appellant pleaded not guilty and asked for the matter to be dealt with by way of correspondence.
8. The charge was found proven.

9. He was suspended for 5 matches, which included a ground ban, and fined £70.
10. The Appeal Board had before it the papers of first instance and the written reasons of the Commission.
11. The charge was one of nine that were consolidated by the Commission. Three participants had requested personal hearings.
12. Giving its reasons for its findings in the Appellant's case, the Commission stated that the charge was based on an extract in a report from the Assistant Referee, Steve Kerr (the Respondent's key witness) in which he had said that the coach from the opposite team came over to Mr Kerr aggressively and used the words contained in the charge. Mr Kerr described the coach as short, with dark hair and a kiss tattoo on the left side of his neck under the name Sam.
13. The Commission noted that there was no statement in response, or rebuttal, from the Appellant to refute the allegations, nor was there any statement from anyone else. Mr Kerr's statement was therefore unchallenged. There was no evidence to suggest that the allegation was invented or fabricated, and the Commission therefore accepted the allegations at face value and had no alternative but to find the case proven, adding that there was simply no evidence in response.

The Appeal

14. The Appellant appealed the findings on the grounds that the Commission came to a decision to which no reasonable such body could have come.

Application to Present New Evidence

15. The FA Regulations:

"The Appeal Board shall hear new evidence only where it has given leave that it may be presented. An application for leave to present new evidence must be made in the Notice of Appeal or the Response. Any application must set out the nature and the relevance of the new evidence, and why it was not presented at the original hearing. Save in exceptional circumstances, the Appeal Board shall not grant leave to present new evidence unless it is satisfied (i) with the reason given as to why it was not, or could not have been, presented at the original hearing and (ii) that such evidence is relevant. The Appeal Board's decision shall be final. Where leave to present new evidence is granted, in all cases the other party will be given an opportunity to respond."

16. No formal application was made by the Appellant in his Notice of Appeal, but his Appeal did contain some new evidence regarding the physical description of the Appellant. He had also submitted two photographs that he said were of himself. He suggested that the new evidence showed significant differences between

himself and the alleged offender, notably the lack of neck tattoos. He also submitted copies of a driving license which showed no name or identification.

17. In responding in writing to the above, the Respondent noted that no such submission was provided by the Club or the Appellant in the original case pack, but perhaps had they done so it might have assisted the panel with its decision.
18. The Respondent also stated that the Club could have advised the Respondent at the time of the charge if it did not believe that the charge related to the Appellant. The Respondent pointed out that the Appellant had not offered up the name of the alleged participant that should have received the charge.
19. Ms Magee told us that the club had thought that it was clear that the evidence was against a coach. As the Appellant's evidence had shown that he was a linesman, it was assumed that the Commission would then know that it was not the Appellant that had been involved.
20. Ms Sowton told us that she had no objection to the new evidence being accepted by the Appeal Board but again stressed that it would have been very helpful if it had been provided at the outset.

The Appeal Board's Deliberations and Decision re the New Evidence

21. The Appellant appeared to have been naïve for not submitting the evidence to the original Commission but, if genuine, the photographs were obviously very relevant to his case of mistaken identity.
22. Ms Sowton had recognised this point and had raised no objection to the new evidence being accepted.
23. The Appeal Board accepted the new evidence

The Appellant's Written Submissions to the Appeal Board

24. In addition to the submissions which constituted new evidence, the Appellant said that Mr Kerr had also said "at this point the Moneyfields Assistant Manager/Coach started shouting at the Referee, saying "look at the fucking linesman, go and talk to the fucking linesman"." The Appellant said that he was the linesman so could not have been the coach using foul language.
25. Secondly, the Appellant stated that the statement from the Referee vouches for him (as Linesman).

The Respondent's Written Submissions to the Appeal Board

26. The Respondent summarised the procedures that it had followed and referred the Appeal Board to the panel's written reasons.

The Appellant's Verbal Submissions to the Appeal Board

27. Ms Magee confirmed that the photographs in the new evidence were of the Appellant.

The Respondent's Verbal Submissions to the Appeal Board

28. Ms Sowton said that, although the Appellant's name did not appear in any of the allegations, it had been provided by the Respondent's safeguarding team, prior to the charge being laid.

Final Submissions

29. Ms Sowton told us that, had the responses from the Club challenged the identity of the alleged offender, and identified the correct gentleman, it would have gone a long way to assist the Respondent and the Commission.

30. Ms Magee had no further comment.

The Appeal Board's Deliberations and Decisions.

31. We found Ms Magee to be entirely credible and that we could accept her assurance that the photographs in the new evidence were of the Appellant.

32. We noted that Ms Sowton did not challenge this evidence and had been entirely fair in acknowledging that it was evidence which would have assisted the Respondent and the Commission.

33. Together with the photographs of the Appellant, which did not match the description of the alleged offender, and the fact that the Appellant was not acting as a coach at the game, we were completely satisfied that the Appellant was not the participant described by the Respondent's witness, Mr Kerr.

34. We were also completely satisfied that, if the Commission had had the benefit of the new evidence, it would have found the charge against the Appellant "not proven".

35. Having accepted the new evidence application, the Appeal Board unanimously allowed the Appeal on the grounds that the decision was one to which no reasonable such body could have come. The Appeal Board acknowledged that, as the new evidence was not available at the first hearing, there could be no criticism of the Commission.

36. In order to give effect to this decision, The Appeal Board, in accordance with Regulation 21 of the Non-Fast Track Appeal Regulations, orders that the charge and sanction are quashed in full.
37. The Appeal Board notes that it is a matter for the Respondent should it wish to consider raising a charge against an alternative individual.
38. The Appeal Fee is to be returned.
39. There is no order as to costs.

The Appeal Board's decision is final and binding on all parties.

Roger Burden (Chair)
Leon Bird
Tony Rock

12 September 2024