

**IN THE MATTER OF
THE APPEAL BOARD OF THE FOOTBALL ASSOCIATION**

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JAMES TRUEMAN (APPELLANT)

-v-

KENT FA (RESPONDENT)

INTRODUCTION

1. These are the written reasons for the findings of an FA Appeal Board which met via videoconference (Microsoft Teams) on Thursday 4 April 2024. The Appeal Board considered an appeal brought by James Trueman of Real Gima Football Club against a decision of the Kent FA (KFA). The Appellant asked for a Non-Personal Paper Hearing.
2. The Appeal Board, constituted as members of the FA's General Appeals Panel, was Jonathan Rennie (Chair), George Dorling and Ian Stephenson.
3. Conrad Gibbons, Senior Judicial Services Officer at the FA, acted as Secretary to the Appeal Board.
4. This is the decision and written reasons of the Appeal Board. By necessity it is a summary document and is not intended to be a record of all submissions and evidence adduced. For the avoidance of doubt, the Board carefully considered all the evidence in the appeal case papers. Following notification of the Appeal Board's findings, published on Thursday 4 April 2024, written reasons were requested by the Respondent.

BACKGROUND FACTS

5. On 8 February 2024 KFA charged the Appellant and alleged that he had used Improper Conduct (including foul and abusive language) contrary to FA Rule E3.1. The allegation was that Mr Trueman had used foul and abusive language during a fixture with Gravesend Athletic on 28 January 2024. Specifically, this referred to Mr Trueman using the language of "Aids Victim."
6. A misconduct response form was lodged online and indicated that the Appellant wished to plead not guilty to the charge and requested that his case be considered at a non-personal disciplinary hearing. The case was adjudicated on 1 March 2024 by an FA Regional Disciplinary Panel.

7. The Disciplinary Commission found the charge against the Appellant to be proven. The Commission's findings were published on 11 March 2024. The Appellant was immediately suspended from playing football for 4 games and fined a sum of £30 and eight disciplinary points were imposed on his club.
8. The Appeal Board were provided with a very full set of papers which included:
 - a. Results Letter and Written Reasons.
 - b. Notice of Appeal.
 - c. Response to Notice of Appeal.
 - d. Papers of First Instance including numbers of witness statements
 - e. Participant Offence History.
 - f. Sanction Stay Application and Outcome

APPEAL GROUNDS/APPEAL BUNDLE

9. The Appellant appealed the Commission's decision on the grounds that the Commission imposed a penalty, award, order or sanction that was excessive.

FINDINGS OF THE APPEAL BOARD

10. The Appeal Board, having considered written submissions made on behalf of the Appellant and the Respondent, make the following observations. The role of the Appeal Board is to exercise a supervisory jurisdiction. It is not the role of the Appeal Board to substitute its own decision for that of the Commission simply because it would have made a different decision at first instance. Therefore, the Board must apply the following principles to the grounds of appeal:
 - a. An appeal such as this proceeds by way of review of the Commission's decisions, it is not a re-hearing.
 - b. It is not open to the Board to substitute their decision for that of the Commission simply because the Board might themselves have reached a different decision. If the Commission has reached a decision which it was open to them to reach, the fact that the Appeal Board might have reached a different decision is irrelevant.

- c. The Appeal Board should be slow to intervene with evidential assessments and factual findings made by the Commission. It should only be interfered with if they are clearly wrong or if wrong principles were applied. This is likely to be where there is no evidential basis whatsoever for a finding of fact that had been made, and/or where the evidence was overwhelmingly contrary to the finding of fact that had been made.

GROUND OF APPEAL SUBMISSIONS – Excessive Penalty or Sanction

11. The Appeal Board noted that the charge letter dated 8 February 2024 specified the range of sanctions applicable to the charge and this stipulated i) a low range finding of a 1-3 match suspension and up to a £20 fine and ii) a medium range finding of a 2-4 match suspension and a fine of between £10 and £30 and then iii) a high end finding of a 3-10 match suspension and fine between £20 and £40.
12. Self-evidently, the sanction applied to the Appellant was in the medium range and cannot then be deemed excessive unless there are extenuating circumstances presented in the appeal note. As it happens, the Appellant admitted using the language of “Aids victim” at the initial stage of proceedings and continues with that admission. It appears that the appeal point is that the expression was used as a retaliation following provocation from an opposing player. Further it is suggested that the Appellant is being punished for his honesty in acknowledging he made the remark in the first place.
13. The Appeal Board had regard to the original written reasons of the Disciplinary Commission and noted that they had considered that the Appellant might have endured some verbal provocation. However, they noted there was no apology from the Appellant and that his disciplinary record was poor and consequently full mitigation was not warranted. The use of the term “Aids Victim” was described by the Disciplinary Commission as being “*vile, totally unwarranted and a malevolent insult*” and the Appeal Board agree with that analysis.

Conclusion

14. The Appeal Board unanimously rejects the Appellant’s appeal and upholds the original decision reached by the Disciplinary Commission
15. The appeal fee is to be forfeited. There is no order as to costs.

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

Jonathan Rennie (Chair)

George Dorling

Ian Stephenson