

IN THE MATTER OF AN APPEAL
FROM THE DECISION OF A REGULATORY COMMISSION
OF THE FOOTBALL ASSOCIATION
BETWEEN:

Pascal Chimbonda (Appellant – ‘PC’)

-and-

Liverpool County FA (Respondent - ‘LCFA’)

WRITTEN REASONS FOR THE DECISION OF THE APPEAL BOARD

1. These are the written reasons for a Decision made by an FA Appeal Board (‘AB’) that heard the above-mentioned case on Friday 5th January 2024.
2. The Appeal Board members were Mr. Stuart Ripley (Chair), Mr. Marvin Robinson and Mr Leon Bird.
3. Mr. Michael O’Connor, of the FA’s Judicial Services acted as Secretary to the Hearing.
4. The following is a summary of the principal submissions and evidence provided to the AB. 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 AB determined the matter. For the avoidance of doubt, the AB has carefully considered all the evidence and materials furnished with regard to this Appeal.

Background to the Appeal

The Charge:

5. PC is the Manager of Skelmersdale United FC ('SUFC')
6. By letter dated 1st November 2023 PC was charged under FA Rule E3 - Improper Conduct – *'not acting in the best interests of the game'*. It was alleged that during a match against Barnoldswick Town FC ('BTFC') on 21st October 2023 PC had a physical confrontation with a BTFC coach following which both sets of players confronted each other. This happened outside the technical area.

Evidence before First Instance Commission:

7. The Referee, Mr. Kieran Leach, reported that PC had *"Deliberately [left] the technical area to act in a provocative or inflammatory manner"* he went on: *"There was a mass confrontation on the pitch initially and as this simmered down another mass confrontation arised on the touchline 10 yards down from the technical areas. The main point of this was Pascal Chimbonda and Robin Chapman was at the centre of all of this and was locked together with arms around the chest/shoulder area causing near enough every player to come and surround. It was an aggressive manner from both and it was outside of the technical area"*.
8. Robin Chapman, BTFC goalkeeping coach ('RC'), stated that he saw PC enter the field of play and have an *"irate"* altercation with the Barnoldswick manager, Andrew Harrison ('AH'). RC stated that he was trying to *"separate the 2 parties"*.
9. AH stated that PC had entered the field of play and that he was *"shouting and F'ing and Jeffing at the referee"*. AH *"brought this to the attention of the referee and his linesman"*, whereupon PC confronted him telling AH that he *"...didn't know who he was and that [he'd] do nothing"*.

10. A VEO video of the match was submitted by BTFC showing the incident in question. After a mass confrontation between the two sets of players PC is seen to enter the field of play whilst the referee is occupied further away, his words cannot be heard although he is seen walking around. He walks towards AH and words are exchanged although they cannot be heard. RC approaches and he and PC are then seen to engage in a physical confrontation. On seeing this, players from both teams rush over and become involved in a melee.

Reply to the Charge:

11. PC accepted the charge and requested that the case be heard via correspondence.

Defence Mitigation:

12. There was no written evidence in defence of the charge or mitigation submitted by PC himself.

13. Mr. Frank Hughes, Chairman of SUFC ('FH'), stated in a letter that PC had been told *"that his behaviour was unacceptable, and was not in keeping with the values of our club"*. FH stated that although PC was in his opinion *"acting as mediator"*, *"he shouldn't have left his technical area, but should've instead left the policing of the game to the match officials"*. FH apologised on behalf of the club, and stated he will *"do his best to make sure this doesn't happen again."*

Decision of the First Instance Regulatory Commission:

14. The Commission stated in its written reasons that it:

- a. Discussed both the charge and defence evidence to inform the decision;
- b. Found the Charge proven because PC had accepted the Charge;

- c. Agreed unanimously that the sanction should be in the HIGH category as PC's behaviour in entering the field of play to remonstrate with the referee had been the catalyst for all that followed;
- d. In assessing what level of sanction to impose noted that there is no specific guidance around minimum sanctions for an E3 charge of Improper Conduct - not acting in the best interests of the game;
- e. In assessing what level of sanction to impose used the guidance pertaining to FA Rule E3.1 Improper Conduct (Including Threatening and/or Abusive Language/Behaviour);
- f. Noted that according to witness statements PC was being abusive (which he had not denied);
- g. Noted that the video evidence clearly shows PC and RC embroiled in a physical tussle.
- h. Took into account PC's previous disciplinary history;
- i. Agreed that a five (5) match 'ground ban' suspension and a £100 fine was an appropriate sanction to impose in all the circumstances.

15. On receipt of the Regulatory Commission's findings SUFC and PC made an application to set the sanction of the Regulatory Commission aside pending an appeal.

16. The FA's Judicial Panel Chair, Christopher Quinlan KC, granted the application to set aside the sanction "*solely because PC will have served a significant portion of the sanction before the matter can be heard. That is not a comment on the merits of the appeal about which I say nothing. The appeal is to be heard during the week commencing 1/1/24.*"

17. SUFC and PC appealed the decision on the ground that the Commission had imposed a sanction that was excessive. A Personal Hearing was requested to hear the Appeal.

18. The Personal Appeal Board Hearing was heard on 5th January 2024 via Microsoft Teams (the 'Appeal Hearing').

19. Prior to the Appeal Hearing the AB was furnished with submissions from SUFC and PC in the form of two letters, one from PC and another from FH. The letters are set out in full below:

20. PC wrote: *Dear FA, I am writing to express my concern and seek a review of the recent disciplinary decision regarding myself Pascal Chimbona (Case No 11451373-M). I believe that the 5-match suspension is disproportionately harsh given the circumstances surrounding the match. The game in question was undoubtedly tense with both Managers and Players exhibiting high levels of competitiveness and passion. However, it is important to note that tensions and emotions can run high during such matches, and it is not uncommon for spirited competition to result in heated moments on the field. I would like to bring to your attention that after the final whistle there where handshakes exchanged and apologies made by both teams indicating a mutual understanding that the competitive nature of this game had come to an end. This post match reconciliation is a testament to the sportsmanship displayed by all parties involved. I also want to clarify that my intention during the heat of the moment was to diffuse the situation among the players, but unfortunately the circumstances led to a misunderstanding. Subsequently, with the presence of the crowd, it may have appeared as if I was the one escalating the situation, which was not my intention. Furthermore, I kindly request that you consider the context surrounding the case, including the match report, plea, statements and my disciplinary history which I believe may provide a more comprehensive understanding of the situation. It is my sincere hope that a thorough review will reveal mitigating factors that warrant a reconsideration of the imposed sanctions. I understand the importance of maintaining the integrity and fair play within the league, and I trust that the Football Association and the league will consider this appeal with the utmost fairness and impartiality. Thank you for your time and attention to this matter. I look forward to a positive resolution that takes into account the nuances of the situation. Sincerely, Pascal Chimbona, Skelmersdale United Head Manager.*

21. FH wrote: *“It has been suggested that Pascal was guilty of improper conduct, one assumes on two accounts. In the first instance Pascal entered the field of play to act as a non-physical peacemaker. A melee had developed between his players and Barnoldswick Town. He tried his best to calm down the situation rather than make it worse. Pascal was trying to set his players an example, by acting as a mediator and in doing so, limit the escalation. In the second instance, Pascal was pulling his players away from the area of conflict, and was then grabbed quite robustly from behind by a person unknown to him and tried his best to free himself from what he considered to be a physical attack. The*

players and management of Barnoldswick Town decided to call him a 'big time Charlie' in a clear attempt to antagonise what by then was a largely diffused situation. Pascal was calm and as such was returning to his technical area. To truly analyse the charge you have to consider the following, Pascal was concerned for the safety of his own players first and foremost, but he also wanted to manage their conduct, which he believes is part and parcel of his job. Pascal assumed that he was under attack from behind, and therefore his reaction to being physically manhandled can only be described as self-defence proportionate to the force that he found himself under, the punishment handed out is totally disproportionate. As such the club wishes to seek a retraction of his punishment, or failing common sense prevailing seek to discuss with the disciplinary commission this matter further and understand how they arrived at this decision. Frank Hughes, Skelmersdale United, Chairman.

22. LCFA were asked by The FA to respond to SUFC and PC's submissions in respect to the Appeal. Mark Lloyd, Football Services Officer at LCFC responded by stating: "*Regarding a Response to Notice of Appeal, Liverpool FA have no observations to make*".

The Appeal Hearing:

23. The AB heard oral submissions from FH on behalf of PC and from PC himself. FH stated that PC was concerned about the welfare of his players when he entered the field of play and that he had not gone on to the pitch to argue with the Referee. He said that PC had been verbally goaded by the SUFC manager and that he had then been grabbed by RC. PC was merely reacting as anyone would if physically held in such a way. The sanction imposed was to his mind very excessive.
24. Mark Lloyd spoke on behalf of the Respondent. However, Mr. Lloyd said that he could only speak to the charging process and not to the Commission's thinking behind its decision to impose a 5-match suspension and a £100 fine upon PC.

Decision of the AB:

25. The AB upheld PC's appeal by a 2:1 split decision.

The Majority view:

26. It was noted by the AB that in its written reasons the Commission members had “*Agreed unanimously that the sanction should be in the HIGH category as PC’s behaviour in entering the field of play to remonstrate with the referee had been the catalyst for all that followed*”
27. The majority view was that the Commission had incorrectly categorised the incident by placing it the ‘HIGH’ sanction band which carries a 3-7 match suspension and a fine of £60-£100. This was because these members of the AB felt that the video evidence did not show PC entering the field of play in order ‘*to remonstrate*’ with the Referee. They also felt that it was unfair to lay the blame for ‘*all that followed*’ upon PC.
28. The majority view was that, even if PC was considered to have entered the field of play to communicate with the referee, the incident still ought to have been placed in either the LOW (1-2 match suspension; £15-£30 fine) or MEDIUM sanction bracket (2- 4 match suspension; £30-£70 fine) as PC was at no point in the proximity of the referee and he had not made any obvious verbal or non-verbal signs, signals or actions that would suggest he was berating or remonstrating with the referee in an aggressive, threatening or confrontational manner.
29. The majority view was that PC was not the initiator of, or the aggressor during, the physical altercation that took place between PC and RC. At least two of RC’s colleagues were involved in the altercation and the BTFC contingent were the clear physical aggressors during the incident.
30. As such the Majority view was that the Regulatory Commission had imposed a sanction that was excessive in all the circumstances.

The Minority view:

31. The minority view was that the Commission was entitled to interpret the written and video evidence in the way that it did and place the incident in the HIGH sanction bracket (3-7 match suspension; £60-£100 fine). To the mind of this AB member certain aspects of the incident were undeniable from viewing the video evidence and the Disciplinary Commission would have recognised this. PC had left his technical area. He had entered the field of play. He had become involved in a verbal altercation with the BTFC Manager which had evolved into a prolonged physical altercation with RC. This altercation was the catalyst for staff and players from both sides becoming involved in a further melee. Factor in the observations of the Referee and that PC's responsibilities as the Manager of SUFC are elevated due to his position and role and it is clear that it was not unreasonable for the Commission to have decided to place the incident in the HIGH sanction bracket and then to impose the sanction that it did.

32. With the Appeal being upheld 2:1 the AB moved to impose a sanction that it felt was more appropriate to the circumstances of the case. In place of the sanction that it had deemed excessive the AB decided to impose a new sanction.

33. As such, PC is suspended from the touchline until SUFC have completed three (3) matches. He is also fined the sum of £50.00

34. This decision is final and binding on both parties and not subject to further appeal.

Stuart Ripley

(Chair of Appeal Board)

11/01/24