

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

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**MICHAEL GREENWAY (APPELLANT)**

-v-

**BIRMINGHAM FA (RESPONDENT)**

**INTRODUCTION**

1. These are written reasons for the findings of an FA Appeal Board which met via videoconference (Microsoft Teams) on Wednesday 19<sup>th</sup> February 2025. The Appeal Board considered an appeal brought by Michael Greenway (MG) of Gornal Athletic against a decision of the Birmingham FA.
2. The Appeal Board, all independent members of the FA's Appeals Panel, was Anthony Rock (Chair), George Dorling and Nolan Mortimer.
3. Jack Mason acted as Secretary to the Appeal Board.
4. The Appellant elected for a personal hearing and represented himself. The Respondent was represented by the Director of Sport Integrity Matters, Mark Ives. In attendance as an observer was the Birmingham FA Football Services Manager, Mohammed Juned.
5. This is the decision and written reasons of the Appeal Board. 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 Appeal Board carefully considered all the evidence and submissions made in this case. Following notification of the Appeal Board's findings, published on Thursday 20<sup>th</sup> February 2025, written reasons were requested by the Appellant.

**BACKGROUND FACTS**

6. On 26<sup>th</sup> December 2024, Birmingham FA charged MG with misconduct for a breach of FA Rule E3 - Improper Conduct against a Match Official (including threatening and/or abusive language/behaviour). The charge relates to an U9's game ("the match/game") played between Gornal Athletic and Netherton Colts on the 6<sup>th</sup> October 2024.
7. The basis of the charge is that MG, the Gornal Athletic's Manager, said, in reference to the Referee, *'I'm going to knock him out in a minute'* or similar. On 27<sup>th</sup> December 2024, MG pleaded guilty to the charge and requested that his case be considered by correspondence. On 6<sup>th</sup> January 2025, an FA National Serious Case Panel, Stand Alone Chair ("the Commission"), sat to consider the charge.

8. Based on MG's guilty plea to the charge and the evidence available to the Commission, the charge was found proven. The Commission determined that MG is to be suspended from all football activities for a period of 91 days, fined £105 and ordered to complete an on-line education programme before the time based suspension is served. His Club, Gornal Athletic, received 8 disciplinary penalty points.
9. The Appellant submitted an application to the FA Judicial Services for the sanction to be stayed. On 30<sup>th</sup> January 2025, the Judicial Panel Chair agreed that the sanction could be stayed pending the outcome of the appeal, and directed that the charge be heard in the week commencing 17<sup>th</sup> February 2025.
10. On the 12<sup>th</sup> February 2025, the Appeal Board issued direction to both parties, which included a requirement for the Appellant to provide additional information regarding his '*Application for New Evidence*'. On 18<sup>th</sup> February 2025, some 24 hours after the issued deadline, the Appellant responded partially to the Appeal Board's direction. At that point, and in an effort to afford the Appellant some latitude, the Appeal Board directed that the Application for New Evidence would be considered as a preliminary issue at the appeal hearing and that no further written submissions were required.

#### **APPEAL GROUNDS/APPEAL BUNDLE**

11. The Appellant appealed on two grounds; the Respondent, (1) misinterpreted or failed to comply with the Rules and/or Regulations of the Association relevant to its decision, and (2) came to a decision to which no reasonable such body could have come to.
12. The bundle of documents before the Appeal Board included:
  - a. Notice of Appeal.
  - b. Response to Notice of Appeal.
  - c. Papers of First Instance.
  - d. Appellant's Offence History.
  - e. Results Letter and Written Reasons.
  - f. Sanction Stay Application and Outcome.
13. The Appeal Board papers are not replicated in these written reasons but were sent to all parties as part of the appeal process. If required, the papers can be obtained direct from the FA/Birmingham FA.

14. The Appeal Board noted the following within the FA's Disciplinary Regulations, Appeals, Non Fast Track (page 189 of the FA Handbook 2024/2025):

a. Regulation 12: *“An appeal shall be by way of a review on documents only and shall not involve a rehearing of the evidence considered by the body appealed against. The parties shall however be entitled to make oral submissions to the Appeal Board. Oral evidence will not be permitted, except where the Appeal Board gives leave to present new evidence under paragraph 10 above.”*

b. Regulation 21: *“sets out the powers of the Appeal Board, including the power to allow or dismiss the appeal”.*

### **NEW EVIDENCE**

15. As a preliminary issue, the Appeal Board first considered the application for submission of new evidence. The Appellant said that he is just a volunteer at the Club and didn't fully understand the misconduct process. In regard to submitting evidence, he was not 100% sure what happened between the game (6<sup>th</sup> October 2024) and Birmingham FA issuing the charge on 26<sup>th</sup> December 2024. He said that shortly after the game, probably within a couple of weeks, the Club Welfare Officer, Sarah Burling, had asked him to gather witness statements and send those to her. These statements were gathered in the event that he was subsequently charged. He submitted his own statement to Sarah Burling in late October 2024, which she then sent to Sport Integrity Matters on 1<sup>st</sup> November 2024 (that statement was included in the appeal bundle).

16. Following the Clubs receipt of the Misconduct Charge Notification (26<sup>th</sup> December 2024), the Appellant said he had a discussion with the Club informing them that he wished to plead not guilty to the charge. When the Club responded to the charge via the FA's Whole Game System (27<sup>th</sup> December 2024), the Appellant said he was not present. It was only later, he couldn't remember exactly when, he became aware that the Club had 'ticked' the wrong box, incorrectly pleading guilty to the charge. He also became aware during that period that the statements provided by a number of his player's parents had also not been submitted to Birmingham FA by the Club. The Appellant said that the Club had made two errors for which they had apologised to him; (1) incorrectly pleading guilty to the charge and (2) failing to submit statements to Birmingham FA. He said he shouldn't be penalised for those two errors.

17. In responding to the Appellant's verbal submission, the Respondent's representative drew the Appeal Board's attention to Regulation 10 of the FA's Appeals Non Fast Track Regulations (page 190 of the current FA Handbook). He said that no part of Regulation 10 had been satisfied. This appeal was against the County FA and against the decision of the FA's National Serious Case

Panel. Both those bodies had acted in accordance with the regulations and can't be held responsible for the Club's error(s). As part of this process there was no evidence/acceptance from the Club that they had incorrectly pleaded guilty to the charge or had failed to submit statements as part of the disciplinary process. He said there was no basis for the new evidence application and that it should be refused.

18. Having considered both the verbal and written submissions in regard to the application for new evidence to be presented, the Appeal Board determined that there were no exceptional reasons/circumstances why that evidence was not, or could not have been, presented at the original hearing. Whilst the Appellant had argued that the Club were in error, there was no material evidence to support that argument. As such, the application to present new evidence was refused.

**FIRST GROUND OF APPEAL - MISINTERPRETED OR FAILED TO COMPLY WITH THE RULES AND/OR REGULATIONS OF THE ASSOCIATION RELEVANT TO ITS DECISION**

19. In his Notice of Appeal, the Appellant drew reference to the Stourbridge and District Youth Football League Rules, stating that referees must submit match reports to the relevant league registration officers within two days of a fixture. The referee's report from this fixture was not submitted until 13<sup>th</sup> October 2024, a week after the game. Given the serious nature of the alleged offence, the Appellant thought that the referee would have submitted his report sooner than the two day timeframe. As a volunteer coach, he couldn't understand why the referee's report was not submitted on time.

20. In written response to the Notice of Appeal, the Respondent said that this two day reference relates to submission of a referee's match report/misconduct notification to the County FA. Whilst there may have been a failure by the referee to comply with those rules, in this instance there was no failure to apply the relevant rules/regulations by Birmingham FA or the Disciplinary Commission. The referee's failure does not invalidate the Disciplinary Commission's findings, and this first ground of appeal should be dismissed.

**SECOND GROUND OF APPEAL - CAME TO A DECISION TO WHICH NO REASONABLE SUCH BODY COULD HAVE COME**

21. In his Notice of Appeal the Appellant focussed on the inaccuracies in the Referee's report and not on the Disciplinary Commission's decision. In his verbal submission, the Appellant said he agreed with most of what was in the Referee's report, but that the Referee had failed to take on board the child safeguarding issues. The Appellant said that safeguarding issues were uppermost in his mind when dealing with young players of this age. He admitted 'back chatting' the Referee but said that he wasn't threatening or abusive, and that his behaviour was worthy of 'only' a yellow card at most, not a red. He again said that the situation was the result of the Club's errors and that he was being penalised for those errors. He had done everything he could to deal with the situation on the day

and had responded to the charge issued by Birmingham FA. He thought it was unfair that his evidence and those of his player's parents were not considered by the Disciplinary Commission.

22. In written response to the Notice of Appeal, the Respondent reminded the Appeal Board that this is not a second chance for the Appellant to defend a charge and it is not for an appeal board to take a different approach. The Appellant had accepted the charge and, as such, the Disciplinary Commission which sat on 6<sup>th</sup> January 2025 could not have done anything other than what they did. In his verbal submission, the Respondent's representative said he had nothing further to add to that Notice of Appeal response, and that this second ground of appeal should also be dismissed.

### **ROLE OF THE APPEAL BOARD**

23. The role of the Appeal Board is to exercise a supervisory jurisdiction. Therefore, the Appeal Board must apply the following principles to the grounds of appeal:

- a. An appeal such as this proceeds by way of review of the decision of the Disciplinary Commission, it is not a re-hearing.
- b. It is not open to the Board to substitute their decision for that of the Disciplinary Commission simply because the Appeal Board might themselves have reached a different decision. If the Disciplinary 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 Disciplinary 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.
- d. Any appellant who pursues an appeal on the ground that a Regulatory/Disciplinary Commission has come to a decision to which no reasonable such body could have come has a high hurdle to clear or a high threshold to pass.

### **FINDINGS OF THE APPEAL BOARD**

24. The Appeal Board, having taken into account the submissions of both parties and having given the Appeal Bundle careful consideration, make the following findings. For clarity, the Appeal Board has referenced each individual ground of appeal.

25. **First Ground - Misinterpreted or failed to comply with the Rules and/or Regulations of the Association, relevant to its decision.** The Appeal Board concluded that, whilst the referee's report was submitted late, such a failure on the referee's part did not mean there was a failure to apply the

relevant rules/regulations by either Birmingham FA or the Disciplinary Commission. On that basis the Appeal Board dismissed this ground of appeal.

**26. Second Ground - came to a decision to which no reasonable such body could have come.**

Applying the test often referenced in these cases (Associated Provincial Picture Houses Ltd v Wednesbury Corporation), the Appeal Board found that the Disciplinary Commission's decision was fair and reasonable. The decision was neither perverse nor unlawful. The Disciplinary Commission had considered the evidence available to them at the time and detailed their findings as to why they found the charge proven. The Appeal Board concluded that the Disciplinary Commission came to a decision that they were entitled to make. The Appeal Board also dismissed this ground of appeal.

**OUTCOME**

27. The Appeal Board determined that:

- a. The appeal is unanimously dismissed on both grounds.
- b. The original sanction imposed by the Disciplinary Commission on 6<sup>th</sup> January 2025 is to be reinstated with immediate effect.
- c. There is no order as to costs and the appeal fee is to be forfeited.

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

Anthony Rock (Chair)

George Dorling

Nolan Mortimer

Monday 24<sup>th</sup> February 2025