

THE DISCIPLINARY COMMISSION

in the matter of

Basketball England

v.

Jermain Hoffman

Stourbridge Hammers

[CASE NUMBER D304]

THE DECISION AND WRITTEN REASONS OF THE COMMISSION

Disclaimer:

These written reasons contain a summary of the principal evidence before the Commission and do not purport to contain reference to all the points made. However, the absence in these reasons of any particular point, piece of evidence or submission, should not imply that the Commission did not take such a point, piece of evidence or submission, into consideration when determining the matter. For the avoidance of doubt, this Disciplinary Commission has carefully considered all the evidence and materials furnished with regard to this matter.

I. INTRODUCTION

1. The Basketball England (the “**BE**”) convened a Disciplinary Commission (the “**Commission**”) on 12 June 2024 to adjudicate upon disciplinary charges levied against Mr Jermaine Hoffman (“**Mr Hoffman**”) (Case number: D304).
2. The Disciplinary Commission was constituted of a single member, Mr André Duarte Costa, an Independent appointed Chair.

II. THE CHARGES

3. In summary, by Misconduct Charge Notification dated 6 May 2024 (the “**Charge Notification**”) issued by Basketball England against Mr Hoffman, he was charged with one charge relating to alleged misconduct in a match between City of Stourbridge Hammers and Northwood Valiants on 31 March 2024.
4. It was alleged that Mr Hoffman adopted inappropriate behaviour falling below the standard expected. (“the “**Charge**”).
5. The Charge Notification referred to the allegation that Mr Hoffman «“used threatening behaviour and/or language towards the Match Officials, which included, “this isn’t finished this time, i’ll see you outside” and/or “we’re gonna finish this off outside I promise.” and/or “go fuck yourself man”.» (the “**Alleged Behaviour**”).
6. The Charge Notification also referred to the Standard Sanctions and Guidelines.
7. Mr Hoffman was required to submit a response by 20 May 2024. Mr Hoffman did not provide a response by the foregoing deadline; therefore his case was considered as a not guilty plea and dealt with in his absence.

III. THE RULES

8. The Discipline Rules are foreseen in Section 5 of the Disciplinary Code¹.

¹Available at: <https://www.basketballengland.co.uk/integrity/policies/discipline-expected-behaviours/disciplinary-code/>.

9. Bearing in mind the charges levied against Mr Hoffman the relevant rule to take into account for the purpose of the present case is Rule 5.2.
10. According to Rule E5.3: Participants are required to ensure their behaviour is appropriate at all times, and maybe subject to a charge under these rules and regulations where such behaviour falls below the standard expected irrespective as to whether that Misconduct was committed during a game or at any other time.

IV. WRITTEN EVIDENCE

11. The following is a summary of the principal evidence provided to the Commission. It does not purport to contain reference to all the points made, however the absence in these reasons of any particular point, or evidence, should not imply that the Commission did not take such point, or evidence, 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.
12. The evidence which the BE relied upon in support of the charge consisted of:
 - a) Official Disciplinary Report by Mayokun Owoseni ("**Mr Owoseni**"), the Umpire, undated²;
 - b) Email from Mr Owoseni, the Umpire, dated 23 April 2024 at 05:53³;
 - c) Official Disciplinary Report by Claire Atkin ("**Ms Atkin**"), the Table Official, undated⁴;
 - d) Email from Ms Atkin, the Table Official, dated 22 April 2024 at 12:50⁵; and
 - e) Email from Mr Hoffman, the Participant charged and a Player for Stourbridge Hammers, dated 23 April 2024 at 09:50⁶.
13. The evidence submitted in defence of the Charge consisted of:

² PP. 6-10 of the case bundle.

³ PP. 12-13 of the case bundle.

⁴ PP. 14-18 of the case bundle.

⁵ PP. 20-21 of the case bundle.

⁶ PP. 24-25 of the case bundle.

- a) Email from Mr Hoffman, the Participant charged and a Player for Stourbridge Hammers, dated 23 April 2024 at 09:50⁷; and
- b) Email from Mr Hoffman, the Participant charged and a Player for Stourbridge Hammers, dated 6 May 2024 at 16:41⁸.

V. THE STANDARD OF PROOF

- 14. In accordance with Rule 7.6 of the Disciplinary Code: The applicable standard of proof will be the civil standard of the balance of probability unless stated elsewhere in the applicable regulations.
- 15. Therefore, the applicable standard of proof required for this case is the civil standard of the balance of probability. This standard means, the Commission would be satisfied that an event occurred if it considered that, on the evidence, it was more likely than not to have happened.

VI. FINDINGS & DECISION

A. GENERAL CONSIDERATIONS

- 16. The Commission reminded itself that the burden of proving a charge falls upon the BE.
- 17. In a Commission such as this, the assessment of the evidence is entirely a matter for the Chair sitting alone to consider. I have to assess the credibility of the witness (that is whether a witness is attempting to tell the truth) and the reliability of the witness (that is whether, even though a witness may be attempting to tell the truth, their evidence might not be relied upon).
- 18. Where there are discrepancies between witnesses, it is for me to decide which witnesses to accept and which to reject. Even where there are discrepancies between witnesses or within a witness's own evidence, it is for me to assess if the discrepancy is important.

⁷ PP. 30-31 of the case bundle.

⁸ PP. 31-32 of the case bundle.

Having considered which evidence I accept and reject, I then have to decide if, on the balance of probabilities, the alleged breach of the BE Disciplinary Code is established.

19. In assessing liability, the Commission was mindful of the issues to be determined in the present case. The issues were whether the Commission was satisfied to the requisite standard that the evidence before it proved that the Alleged Behaviour constituted inappropriate behaviour falling below the standard expected.

B. FINDINGS

20. In the present case the allegation was that Mr Hoffman, the Participant charged and a Player for Stourbridge Hammers, adopted an inappropriate behaviour falling below the standard expected.
21. According to the evidence provided to the Commission the allegation was that Mr Hoffman adopted the Alleged Behaviour.
22. The Commission noted that Mr Hoffman's email by means of which he "*explained and apologised for [his] outburst and [his] behaviour.*". Furthermore, Mr Hoffman also "*admitted [he] was in the wrong for getting mad and saying [they] would finish this outside*" The Commission considered this to be a clear and explicit admission of guilt, especially after being face with the allegations, therefore was satisfied that Mr Hoffman adopted the Alleged Behaviour.
23. As a result of the aforementioned, the Commission found, on the balance of probabilities, the Charge proven.

VII. SANCTION

24. The Commission was informed that Mr Hoffman had a previously unblemished disciplinary record.
1. With respect to aggravating factors, the Commission considered the seriousness of the comments made. Although the recipient of Mr Hoffman's behaviour was the Match Official, which constituted itself an aggravating factor, it is already reflected on the

sanctions to be imposed as per the recommended sanction guidelines. For this reason, this fact should not be taken into account for the purpose of aggravating the sanction.

2. In relation to mitigating factors, the Commission considered Mr Hoffman disciplinary record and the fact he apologised after the match, although not to Mr Owoseni. Finally, the Commission gave him credit for admitting his outburst.
3. Mr Hoffman contested the charge, as was his right, but naturally he could not avail himself of any credit he would have otherwise been entitled to had he entered a guilty plea.
4. Having considered all the circumstances in the case, the sanction guidelines and the aggravating and mitigating factors present, the Commission imposed the following sanction:
 - a) A 5-month suspension from all basketball activity effective after the 14-day appeal time limit has elapsed; and
 - b) A £100.00 fine.

VIII. RIGHT TO APPEAL

5. This decision is subject to the right of appeal under the relevant appeals procedure provided for in the Disciplinary Code.

André Duarte Costa

8 July 2024