

WRITTEN REASONS OF THE FAST TRACK TRIBUNAL



IN THE MATTER OF A WRONGFUL DISMISSAL CLAIM BROUGHT BY:

Aberdeen FC

on behalf of

Ross McCrorie.

1. These are the written reasons for a Determination made by a Fast Track Tribunal which convened on Friday 3rd February 2023 to deliberate this Claim.
2. In the 7th minute of the Scottish Premiership fixture between Aberdeen FC and St Mirren FC on Wednesday 1st February 2023, the player was dismissed from the field of play by the Referee for A2: Violent Conduct as constituted by the IFAB Laws of the Game.
3. The Claimants submitted a Claim of Wrongful Dismissal on behalf of the player. In support of this Claim, the club submitted video footage showing the incident in question and detailed written submissions.
4. In order for a Claim of Wrongful Dismissal to be upheld, the Fast Track Tribunal must be satisfied, by way of evidence submitted and upon the balance of probabilities, that the Referee made an Obvious Refereeing Error in dismissing the player.
5. In summary, the Claimant's submission was that the decision of the Referee on the date in question amounted to Wrongful Dismissal in terms of paragraph 13.17.9.2 of the Judicial Panel Protocol. The club stated that the incident occurred seven minutes into the match, when the player, Ross McCrorie was impeded by Charles Dunne of St. Mirren FC. The club stated that there had been no previous animus or altercations between any Aberdeen FC or St Mirren FC players including the player and Charles Dunne, and as such there was no motive for the player to carry out an act of Violent Conduct' on his opponent.
6. The Club narrated its interpretation of the incident itself as occurring when the player ran with the ball towards the St. Mirren FC penalty area, and as he did so, Charles Dunne manoeuvred himself into his pathway. When the player knocked the ball beyond Charles Dunne, the St. Mirren FC player remained within his natural running pathway, making no effort to challenge or play for the ball. The club stated that the player made an attempt to avoid contact with Charles Dunne by trying to move around the right-hand side of Charles Dunne's body, and to challenge for the ball whilst continuing his advance towards the St. Mirren FC penalty area. The club stated that as the player stepped to the right, that Charles Dunne extended his right arm around his body thereby impeding this run. It was stated that in an effort to avoid contact with Charles Dunne, the player placed his right hand on the top right of Charles Dunne's shoulder blade, but in so doing, due to the body position and stance adopted by Charles Dunne, that his arm had to go up and over the right shoulder of Charles Dunne, which was the only place his right arm could go. As he did so, Charles Dunne raised his right arm in an upward vertical motion, thereby causing the player's right arm to inadvertently make contact with Charles Dunne's face.
7. It was submitted that the subsequent movements of Charles Dunne were what caused the player to change his running path to challenge for possession of the ball, and to cause his right arm to

make contact with Charles Dunne's face. The club submitted that throughout the incident the player's line of sight was focused on challenging for the ball, and not on Charles Dunne, demonstrating that this was not a deliberate action. The club suggested that the contemporaneous lack of reaction by the St. Mirren FC players indicated that they did not believe that an act of Violent Conduct had been committed.

8. The club also submitted that in terms of the INTERNATIONAL FOOTBALL ASSOCIATION BOARD AND LAWS OF THE GAME, that Violent Conduct is defined as follows: "Violent conduct is when a player uses or attempts to use excessive force or brutality against an opponent when not challenging for the ball, or against a team-mate, team official, match official, spectator or any other person, regardless of whether contact is made. In addition, a player who, when not challenging for the ball, deliberately strikes an opponent or any other person on the head or face with the hand or arm, is guilty of violent conduct unless the force used was negligible." Accordingly it was submitted that, applying this definition of 'Violent Conduct', that the player could not be adjudged to have committed an act of 'Violent Conduct' given that he was demonstrably challenging for the ball and he did not either consciously or intentionally strike Charles Dunne. It was also submitted that at no point during contact between the player and Charles Dunne did he close his fist or deliberately direct his arm or elbow into the face of Charles Dunne. The player's wrist was also said to be limp and at no point was his fist closed or directed towards Charles Dunne with excessive force as demonstrated by the fact that his eyeline was never fixated on Charles Dunne. The club's *Esto* position was that even if there had been a deliberate action on the part of the player (which was denied), that any contact was negligible. It was noted that Charles Dunne quickly rose back to his feet. Charles Dunne did not require any such treatment and was able to play on immediately after the incident occurred.
9. The club made reference to section 13.18.1 of the JPP for Season 2022/23, accepting that a Claim could only be upheld on a balance of probabilities where an Obvious Refereeing Error has been made, that being described as "an error at a match by a referee or a match official which is clear or self-evident, or easily perceived". The club asserted that both the match Referee and his Assistant were well placed to observe the incident whilst it was taking place, and although the Referee initially gave a free-kick in favour of St. Mirren FC, he did not believe the incident required any further action. This was not conducive of a Clear and Obvious Error thereby providing the VAR Officials 'free reign' to direct him to view the VAR screen.
10. Further the club strongly disagreed with the assessment of the Referee that "excessive force" was used by the player, nor that he "endangered his opponent's safety". The club asserted that endangering an opponent's safety is not a pre-requisite for a finding of 'Violent Conduct' and as such the Fast Track Tribunal were invited to disregard this element of the Referee's reasoning, given that it was not within the terms of reference where the rule of 'Violent Conduct' is concerned. The club also stated that the Referee failed to comment about whether the conduct referred to was intentional.
11. In summary the club asserted that there was no reference to any intent on the part of Ross McCrorie, that the footage and images provided established that no excessive force had been used, and that the potential for an opponent's safety to have been endangered is not a pre-requisite for a finding under Rule 2A ('Violent Conduct'). The club suggested that the issues for consideration in determining whether an Obvious Refereeing Error had been made were: (1) Was the player challenging for the ball or not? (2) Did the player strike the opponent's face with his arm or hand? (3) Was the action intentional? and (4) Was the force used excessive or negligible?
12. The Referee provided a statement explaining the act which he decided was A2: Violent Conduct. The Referee explained that in the 7th minute of the match that the player was running with the ball towards the St. Mirren FC penalty area, and as he played the ball beyond a St. Mirren FC defender that he appeared to catch that player with his arm. He stated that he awarded a direct

free kick to St. Mirren FC, however he could not see the violent act from his position and was advised by the VAR Official, Gavin Duncan, to go to the VAR area for an on field review. After reviewing the incident he was of the opinion that there was clear evidence that the player had committed an act of Violent Conduct. He considered that the player had struck his opponent in the face using his forearm/elbow with excessive force and endangered his opponent's safety. Therefore, he opined that the act committed by the player constituted an act of Violent Conduct as defined by the IFAB Laws of the Game. After reviewing the incident he had called the player across and sent him off for Violent Conduct. Play thereafter restarted with a direct free kick to St. Mirren FC.

13. The Fast Track Tribunal viewed the video footage of the incident and carefully considered the written submissions from the Claimants. It also considered the definition from Laws of the Game in relation to the sending off offence of Violent Conduct. The Fast Track Tribunal carefully considered the Referee's report as well as the detailed submissions of the club. Further the Fast Track Tribunal considered the video footage lodged.
14. Having considered all the evidence, the Fast Track Tribunal decided that the Claimants had unsuccessfully demonstrated that an Obvious Refereeing Error had occurred. The Fast Track Tribunal noted that the footage showed that the player was advancing at speed towards the opponent's penalty area and that in this regard that his progress did appear to be impeded by the St. Mirren FC player. The Fast Track Tribunal noted that as he attempted to pass the St. Mirren FC player that he raised his arm to a position that his elbow was the highest part thereof and while it was in an extended position that it struck the face of the St. Mirren FC player. There was no attempt on the part of the player to withdraw his elbow when it became clear that it was going to come into contact with the opposition player. It appeared to be obvious that given the respective positions of the players, that his elbow would strike the face of his opponent, and no remedial action was taken by him. Indeed the player appeared to move his arm slightly, and deliberately toward the face of the St. Mirren FC player at the point of contact. In these circumstances, it could not be said that the Referee was not entitled to draw a reasonable inference that this action was deliberate. The Fast Track Tribunal also considered the submissions of the club to the effect that the offence of Violent Conduct could not be constituted as the players were challenging for the ball at the point of contact. In this regard the Fast Track Tribunal noted that at the point of contact that the ball had been played beyond both players, neither of whom would have been in a position to play the ball without taking further steps towards it. The Fast Track Tribunal concluded therefore that the player was not therefore 'challenging' for the ball at the point of contact. Accordingly the Fast Track Tribunal applied the terms of the INTERNATIONAL FOOTBALL ASSOCIATION BOARD AND LAWS OF THE GAME, and in particular the definition that Violent Conduct is constituted when a player when not challenging for the ball, deliberately strikes an opponent or any other person on the head or face with the hand or arm. In this instance the force used could not be said to have been negligible. Reference was also made in this regard to the reaction of the St. Mirren FC player in question who fell to the ground clutching his head. The fact that no subsequent medical treatment was required was fortuitous, but did not render the force used as being negligible. The Fast Track Tribunal noted that a Claim can only be upheld on a balance of probabilities where an Obvious Refereeing Error has been made, that being described as "an error at a match by a referee or a match official which is clear or self-evident, or easily perceived". The Fast Track Tribunal were not satisfied that any such Obvious Error had been made by the Referee.
15. The Determination of the Fast Track Tribunal was that the Claim be dismissed and the sending off offence and original sanction should be reimposed.
16. The Determination of the Fast Track Tribunal is final and binding on all Parties and is not subject to Appeal.