

DISCIPLINARY COMMISSION

In the Matter of

Basketball England

v

Farnborough Phantoms

COMMISSION

The Commission members appointed by Basketball England were:

Chairman: Tom Cleeve

Member: Andre Costa

Member: Gerald Daish

Colin Hills acted as Secretary to the Commission.

A hearing took place online via Microsoft Teams on 19 June 2023 commencing at 09.40am. No representatives from Farnborough Phantoms were present.

CHARGES

Basketball England charged Farnborough Phantoms on 4 May 2023 with a breach of Disciplinary Code 5.6: Failed to ensure spectators conducted themselves in an orderly fashion, bringing the game into disrepute; including but not limited to behaviour that includes a reference, whether expressed or implied, to any protected characteristic.

It is alleged that language was used by a spectator(s) that was offensive and/or made reference to race/ethnicity. This refers to the comments “chink” and/or “go home”.

RESPONSE

Farnborough Phantoms denied the charge and requested the matter be dealt with on correspondence only.

EVIDENCE

- i. Report from match official Peter Hrabuvcin;
- ii. Report and email from Vicky Gao-Baker, Game day Delegate and parent Oxford Hoops;
- iii. Email from Franky Marulanda, Oxford Hoops;
- iv. Statement from [REDACTED], player Oxford Hoops; AND
- v. 2 x video clips provided by Oxford Hoops.

GENERAL CONSIDERATIONS

The Commission reminded itself that the burden of proving a charge falls upon the Basketball England.

In a Commission such as this, the assessment of the evidence is entirely a matter for the Commission to consider. We must 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).

Where there are discrepancies between witnesses, it is for us 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 us to assess if the discrepancy is important. Having considered which evidence we accept and reject, we then must decide if, on the balance of probabilities, the alleged breach of the Disciplinary Code is established.

COMMISSION'S FINDINGS

The Commission considered the video evidence from the match and were satisfied that it did not contain any comments or references to race/ethnicity, more specifically "chink". The Commission were all agreed that the shorter video contained a reference to "cheating" and it is possible that it could have been mistaken for a comment relating to race.

The Commission also noted there was contradictory evidence as to what was alleged to have been said. Certain witnesses refer to "ching" whereas others state "chink" was the word that was used.

The Commission observed that the pack did not contain any other evidence in support of the allegation where a spectator was purported to have said words to the effect of "go home". As such, due to the charge being denied, it was one individual's word against another's.

On the balance of probabilities, the Commission found the charges under Disciplinary Code 5.6 not proven.

SANCTION

As the Commission found the charges not proven there was no sanction to be imposed on the Club.

RIGHT OF APPEAL

There is a right of appeal against this decision under Basketball England regulations.

Chairman Tom Cleeve

Date 26/06/2023