

DISCIPLINARY COMMITTEE OF THE FOOTBALL FEDERATION OF AUSTRALIA

DETERMINATION IN THE FOLLOWING MATTER:

Official and club	John Aloisi – Melbourne Heart FC
Alleged offence	Use of offensive, insulting or abusive language and/or gestures against a match official
Date of alleged offence	30 March 2013
Occasion of alleged offence	Match between Central Coast Mariners FC v Melbourne Heart FC
Date of Disciplinary Notice	2 April 2013
Basis the matter is before the Disciplinary Committee	A referral: see clause 3.3(a) and 9.14(b)
Date of Hearing	Wednesday 17 April 2013
Date of Determination	Thursday 18 April 2013
Disciplinary Committee Members	John Marshall SC, Chair Peter Mulligan Ben Jones

A. INTRODUCTION AND JURISDICTION

1. Before going to the detail, the Committee notes that there are some similarities between this case and the case concerning Ricki Herbert the Wellington Phoenix head coach, which was decided by the Committee (differently constituted) on 8 December 2010. It involves a head coach expelled as a result of inappropriate conduct directed at a match official.
2. The Committee has jurisdiction under clause 4.4 of the "FFA A-League Disciplinary Regulations" applicable to the 2012-2013 A-League season (**the Disciplinary Regulations**) to determine matters which have been referred to it pursuant to the Disciplinary Regulations. When a matter is duly referred, clause 3.3(a) provides that the Committee must determine the matter and impose such sanctions as are authorised and appropriate to the determination.
3. In this matter there has been a referral under clause 9.14(b) of the Disciplinary Regulations. In the case of a referral under clause 9.14(b) the person concerned (here a head coach) will have been given the equivalent of a direct red card by the referee. In this case the head coach was expelled from the technical area. The consequence is that the person concerned will have an automatic Mandatory Match Suspension (in this case 1 match). No part of the above process is able to be referred to the Committee and hence cannot be appealed.
4. Further, in the case of a referral under cl 9.14(b) the Match Review Panel (**the MRP**) also will have formed the view that, on the material available to the MRP, an additional sanction over and above the Mandatory Match Suspension was warranted

and the person concerned will have elected not to accept the proposed additional sanction. That is what has happened here.

5. On this occasion the MRP proposed an additional sanction (over and above the Mandatory Match suspension) of two matches. Nevertheless, it is for this Committee to determine the additional sanction to be imposed (not merely whether some or all of the additional sanction proposed by the MRP ought to be imposed over and above the Mandatory Match Suspension).
6. Further, it is open to the Committee to upgrade or downgrade the offence; albeit not to eliminate the Mandatory Match Suspension.

B. THE HEARING

7. On the evening of Thursday, 18 April 2013 the Committee heard the referral of the above matter. At the conclusion of the hearing (following deliberations and pursuant to clause 20.4 of the Disciplinary Regulations) the Committee verbally announced the result of the hearing. These are the written reasons of the Committee in the "*shortest form reasonably practicable*" (see clause 20.3(c)).
8. At the hearing Disciplinary Counsel was Ivan Griscti and the coach (Mr John Aloisi) was represented by John Didulica.

C. FACTS

9. In the first half of the match a penalty was awarded against Melbourne Heart FC. At half time, Mr Aloisi was in the tunnel leading to the dressing rooms and saw a replay of the incident (that led to the penalty being awarded) on a television screen used by Fox Sports. His interpretation of the incident from seeing the replay was that the referee had made a serious error. He was upset. He believed the replay confirmed his initial opinion that a penalty should not have been awarded and that a red card should not have been given to the offending Melbourne Heart player
10. At that point, as Mr Aloisi turned around, the match officials entered the tunnel. He lost his temper. Mr Aloisi confronted the match officials, including the referee Jarred Gillet, as they entered the tunnel. There is no dispute as to what happened next. The details are in the incident reports of the referee and other match officials. Mr Aloisi does not dispute that the substance of what was recorded in those reports took place. Those reports state that John Aloisi pointed his finger and said in a loud voice, "It hit him in the back. Every fucking week. You're killing us. Fucking disaster you are".
11. The referee's response was swift. Mr Aloisi was expelled from the technical area, the field of play and its general surrounds. Although Mr Aloisi initially returned to a seat in the wrong place nothing turns on that as it was an innocent mistake and everyone accepts that Mr Aloisi was doing his best to comply with the instruction. Once the situation was explained he immediately complied. In the circumstances it is appropriate to treat his response as complete acceptance of the decision of the referee to expel him.
12. The FIFA Laws of the Game provide that each match is to be controlled by the referee who has full authority to enforce the Laws of the Game. The referee has full power to take action against a team official who fails to conduct him or herself in a responsible manner and may expel a team official. Further the Laws of the Game provide that the use of offensive, insulting or abusive language and or gestures is a sending off offence in respect of a player and that conduct, if engaged

in by a team official, can result in an expulsion of the team official. Here the referee exercised his authority in circumstances where there was conduct, which is admitted, that constituted "offensive, insulting or abusive language and or gestures against a match official".

13. The offence is within Category 1 and carries a Mandatory Match suspension of 1 match. Pursuant to clause 9.13 of the Disciplinary Regulations the MRP issued a disciplinary notice to Mr Aloisi; it proposed an additional sanction of two games, making a total proposed suspension of three games. Mr Aloisi did not wish to accept a three match suspension and exercised his right to refer the matter to the committee.

D. SUBMISSIONS

14. Reference was made to clause 11.2 of the Disciplinary Regulations.
15. The matters submitted by Disciplinary Counsel included:
 - (1) The severity of the language and conduct.
 - (2) The potential that the conduct implied that the referee lacked competence generally.
 - (3) That even though the incident occurred out of the public view, that was of no assistance to Mr Aloisi as it is likely being in the confines of the tunnel heightened the confrontational and threatening nature of the event.
 - (4) That past cases involving the use of offensive, insulting or abusive language by Match Officials cannot be relied upon because each case is determined on its own particular facts and particular circumstances. More particularly, in eight out of the nine cases, the participants accepted the sanction proposed by the Match Review Panel.
 - (5) That there has been an increase in the "*Use of offensive, insulting or abusive language and/or gestures against a match official*" which is a matter of concern to the FFA and the A-League. All clubs were reminded of their responsibilities under the Laws of the Game by a memo issued on 19 February 2013.
 - (6) That the relevant sanction ought to have a deterrent effect as well as being appropriate for the circumstances of Mr Aloisi's offence.
 - (7) That but for Mr Aloisi's past exemplary record and apology to Mr Gillett, a greater sanction may have been appropriate.
16. The matters submitted on behalf of the coach included:
 - (1) Mr Aloisi did not contest the charge.
 - (2) The language was not intended to denigrate the referee rather it was an intemperate outburst.
 - (3) Mr Aloisi has issued an unreserved apology to the referee.
 - (4) That the Mandatory Minimum Sanction of one match is appropriate, especially in comparison to other offences of this nature.
 - (5) The past exemplary record of Mr Aloisi should to be taken into account under cl 11.2(b). Mr Aloisi has not at any point been cited for offences within the technical area or beaches of the FFA National Code of Conduct. As a professional footballer for 19 years, Mr Aloisi was never sent off for any

offence against a match official. His only three red cards were for tackles and or two yellows.

17. No submission has been made by Disciplinary Counsel or the player that there are Exceptional Circumstances within clause 11.3 of the Disciplinary Regulations.

E. CONSIDERATION AND FINDINGS

18. In the 2010 determination in respect of Mr Ricki Herbert the Committee took into account his exemplary prior conduct over many years. The career of Mr Aloisi as a player and now coach is no less exemplary than that of Mr Herbert. Indeed both can fairly be described as ambassadors of the game who had prior unblemished records.
19. Further in the case concerning Mr Herbert the committee determined that in all the circumstances there should be a suspension of only one additional match over and above the mandatory match.
20. Here Mr Aloisi stated that he let himself down and he let his team down. Further he recognises he let down the whole of Melbourne Heart FC. He states and we unreservedly accept he was embarrassed by his conduct and the fact that he had lost his temper. He has a young family and had to explain his poor behaviour to his children.
21. It is likely that at some point, Mr Aloisi will be asked about the incident by the media. Mr Aloisi has indicated that should that happen he proposes to respond by immediately acknowledging that his behaviour was poor and he should not have lost his temper.
22. These matters together with his fine prior record weigh heavily in his favour.
23. Another consideration is that the incident occurred in the tunnel outside the public view. The Committee determined that Mr Aloisi's insult was not premeditated and timed so as to occur in the tunnel. He has explained that seeing the replay in the tunnel is what caused him to lose his temper. Overall this factor is slightly in favour of Mr Aloisi when compared to a public display of poor behaviour recorded on television.
24. On the other side, as disciplinary counsel points out, it is appropriate to impose a sanction which acts as a deterrent. The corollary of the outstanding record of Mr Aloisi is that he has become a role model. The game can ill afford to have its fans shown poor conduct by role models such as Mr Aloisi.
25. But for his exemplary prior record, his unreserved written apology sent to the match official and the fact that he immediately acknowledged the expulsion by the referee we would have no doubt that the sanction proposed by the MRP was appropriate. Indeed the only reason we differ from the MRP is that the MRP does not have the opportunity to take into account matters in clause 11.2(b) and (c) and (appropriately) decides that matter on the footing of the conduct itself without regard to specific individual matters concerning the participant. Where such matters are relied upon by the participant, it is appropriate the matter be referred (by the participant) to this Committee to weigh those matters.

F. RESULT

26. The sanction we impose is 1 match over and above the Mandatory Match Suspension.

27. No application was made or any part of a sanction to be suspended.
28. The committee emphasises that offensive behaviour towards match officials cannot be condoned. This decision must not be read as condoning Mr Aloisi's conduct. He has acknowledged his error and it is a serious one. In the future any coach who behaves in this way could expect to receive a sanction of 3 matches. It is primarily Mr Aloisi's prior exemplary record which has caused us to reduce the proposed sanction from 3 matches to 2 matches.

John Marshall

J E Marshall SC, Disciplinary Committee Chair

18 April 2013