

**NOTICE OF DETERMINATION.**  
28 February 2022

Reference is made to the following Tribunal:

<b>1. Date of the Tribunal</b>	<b>22nd February 2022</b>
<b>2. Tribunal that heard the case</b>	<b>General Purpose Tribunal (GPT)</b>
<b>3. Tribunal reference number</b>	<b>GPT 21-09</b>
<b>4. Tribunal Members</b>	<b>David LEWIS (Chair) Duncan TWEED Robert IACONIS</b>
<b>5. Venue of Tribunal</b>	<b>Football NSW</b>
<b>6. Time of Tribunal</b>	<b>6.30pm</b>
<b>7. Respondent</b>	<b>Mr Saviour King Emenogu</b>
<b>8. Key Words</b>	<b>Punch Match Official, Multiple Play Football accounts, Failure to serve suspension, non-receipt of Determination, Agent/Principal liability, Delay in proceedings.</b>

**This document constitutes a Final Notice of Determination resulting from the Tribunal hearing listed above.**

Charges against the **Respondent** under Sections 9.2 and 16.4 of Football NSW Grievance and Disciplinary Regulations 2021 for alleged breaches of the Football NSW Regulations and the FFA Code of Conduct related to incidents during the Men's State League (MSL) Men's 1st Grade match between FC Gazy Auburn and Wagga City Wanderers FC on 13 August 2017 at Progress Park. In addition, the Respondent was charged in relation to the creation of multiple Play Football accounts and failure to serve his suspensions.

## Summation of the Tribunal:

The Tribunal found that the evidence and submissions:

**Supported** the Charges brought against the Respondent.

## Charges and Pleadings:

### Charge 1

During the Men's State League (MSL) 1st Grade match between FC Gazy Auburn and Wagga City Wanderers FC at Progress Park on 13 August 2017, Saviour King (the **Respondent**) uttered words to the effect of "*you are fucked in the head*" towards the Assistant Referee, Soheil Adabjou, and was subsequently issued a Red Card (Red Card Code R6) by the Referee, Hugh Carwardine (**First Red Card Offence**).

Following the First Red Card Offence, the Respondent punched the Referee, Hugh Carwardine, once in the face. The Referee fell to the ground and began bleeding from his nose and mouth.

This conduct was alleged to be in breach of Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2017:

Schedule 3, Table B, Offence Code 15-01 - "*Assaulting/striking*";

### Sanctions Imposed by Football NSW in 2017

The Respondent was issued with a Notice of Charge

1. On 7 December 2017, Football NSW imposed a suspension of six (6) Fixtures on the Participant in respect of the First Red Card Offence.
2. On 7 December 2017 September 2020, Football NSW sent to FC Gazy Auburn, via email, a Notice of Suspension which set out details of the Suspension relating to the assault on the Match Official.
3. The Respondent's Club was issued with an undated Notice of Determination. In that Notice the Respondent was suspended for three (3) years. This sanction was to commence on 13 August 2017.

### Charge 2

On 2 July 2020, the Respondent (or someone acting on his instructions) created a Play Football account under the name "King Davidson Emenogu" (FFA No. 10970547).

On 9 March 2021, the Respondent (or someone acting on his instructions) created an additional Play Football account under the name "King Davidson Emenogu" (FFA No. 11161482).

During the process of creating the second Play Football account, the Respondent agreed to certain terms and conditions, including warranting that he held only one Play Football account.

At the relevant time, the Respondent did not hold only one Play Football account. By agreeing to the terms and conditions (including providing the warranty), the Respondent provided false or misleading information to Football NSW and/or Football Australia. That conduct is aggravated by the fact it was done in an attempt to avoid serving a suspension from football.

As a result of the above, the Respondent participated in FNSW Fixtures whilst he was still subject to suspension.

Complete details are set out in the Notice of Charge dated 15 November 2021.

This conduct was alleged to be in breach of:

1. Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2021, namely Schedule 3, Table C - Offence Code 35- 01 (Participant or Member failing to provide or providing false/misleading information to Football NSW or a Body); **or, in the alternative,**
2. Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2021, namely Schedule 3, Table C - Offence Code 21- 01, (Breach of Football NSW Rules and Regulations or FA National Registration Regulations relating to registration (other than dual registration) and/or competitions), namely article 16.7 of the National Registration, Status and Transfer Regulations (False or Misleading Information); **or, in the alternative,**
3. Section 16.4(b) of the Football NSW Grievance and Disciplinary Regulations 2021, namely article 16.7 of the National Registration, Status and Transfer Regulations (False or Misleading Information); **or, in the alternative,**
4. Section 16.4(b) of the Football NSW Grievance and Disciplinary Regulations 2021, namely clauses 2.1 and 2.2(g) of the FFA Code of Conduct (forgery and falsification, including creation of a false document, forgery of a document or signature, the making of a false claim or providing inaccurate or false information on a prescribed form).

### Charge 3

On 10 April 2021, the Participant participated for Polonia Rams Soccer Club's 1<sup>st</sup> Grade Men's team in a football match against Parklea SFC in the BDSFA 2021 football competition while subject to the GDSEFA Suspension.

Football NSW relied of the Particulars set out in Charge 2 in the Notice of Charge dated 15 November 2021.

### Pleadings & Evidence

The Respondent pleaded GUILTY to Charge 1 in his Notice of Response to FNSW however he disputed some or all of the facts and/or the sanction.

The Respondent pleaded NOT GUILTY to Charge 2 in his Notice of Response to FNSW.

The Respondent pleaded GUILTY to Charge 3 in his Notice of Response to FNSW however he disputed some or all of the facts and/or the sanction.

Football NSW listed Proposed sanctions for each of the Charges in the Notice of Charge dated 15 November 2021 as follows:

Charge 1 - 3 years;  
Charge 2 - 12 months; and  
Charge 3 - 12 months.

On the basis of a plea of guilty to the three charges, Football NSW was prepared to allow the suspensions in respect of Charges 2 and 3 to be served concurrently with each other but cumulatively with the suspension in respect of Charge 1 such that the Respondent would serve a total **Time Suspension of four (4) years**. As the Respondent wanted the matter referred to the GPT, FNSW submitted that this offer lapsed and that it was open to the Tribunal to impose other sanctions.

**Warning**

The Respondent was warned by the Tribunal that a three-year suspension for assaulting a Match Official was low and that a Life Sanction was the common sanction in such cases. Therefore, as this matter was brought before the Tribunal, it was open to the Tribunal to impose different sanctions to that proposed by FNSW.

**Respondent's Evidence – Charge 1**

The Respondent was represented by Mr George Koimanos, Solicitor. The Respondent advised the Tribunal that he did not receive any documents from his original Club advising him that he was suspended. However, he advised the Tribunal that he did not play football for a period of 2 years and eleven months after the events of 13 August 2017 (that is the assault of the Match Official) as “he fell out of love with football.”

He was aware that he would be suspended however made no attempt to find out for how long that might be.

In his written submissions, the Respondent stated:

*“I appeared at both Burwood local court and Parramatta district court in respect of the incident. All of the charges were dropped particularly because of the incitement/discrimination on behalf of the official and the comment that was made to me.”*

Under questioning by the Tribunal, it became clear that this was not correct. The Respondent advised that he was ordered to complete 50 hours of community service. Whilst the Respondent was unable to advise the full details of these court proceedings, it was clear to the Tribunal that he did not fully understand those proceedings. He made no attempt to hide the order of community service and he thought that the proceedings had been withdrawn.

The Respondent suggested that he had pushed the referee rather than punched him and noted that as he was a Commonwealth Games boxing medallist, if he had punched him the result would have been severe. However, he agreed that what he had done was clearly wrong and he was not proud of his behaviour. He was clearly ashamed.

The Respondent changed his plea to Guilty and did not wish to contest any of the evidence.

**Charge 2**

The Tribunal directed Mr Koimanos to address on the issue Agency law in relation to the claim that the Respondent was not liable for the error that was the subject of this Charge. Mr Koimanos was unable to refute the proposition that the Respondent must bear the responsibility for the failure of his agent to correctly manage his Play Football account.

Mr Koimanos conceded that the agent could not be liable and that the Respondent must be held responsible.

The Respondent also changed his plea to Guilty and did not wish to contest any of the evidence under Charge 2. He did however assert that this was an honest mistake and was not an attempt to avoid serving his suspensions.

**Charge 3**

The Respondent further conceded that he was guilty of this Charge as he clearly had not served his suspension, even though he was unaware of the term of that suspension.

He honestly believed he was eligible to play and the creation of a third Play Football account was another error and not an attempt to prevent detection of his prior suspensions.

## Determination of the Tribunal

The Tribunal found that the Respondent was **GUILTY** of all Charges.

### Charge 1

The principal incident that was the catalyst for all Charges was the Red Card issued to the Respondent and the subsequent assault of the Match Official. This occurred almost five (5) years ago. Football NSW had issued proceedings against the Respondent at that time and as no response was received, issued a Notice of Determination suspending him for six (6) Fixtures for the Red Card and three (3) years for the assault of the Match Official.

Football NSW accepted that the Respondent did NOT receive that Notice. Football NSW submitted that as the Respondent was unaware of the sanction of three (3) years, he should not be given the credit for his self-imposed absence from the game of 2 years and 11 months and that a new sanction should be imposed on him.

Football NSW claimed that the fact that he was unaware of the sanction rendered that sanction inoperative and also claimed that they had withdrawn that sanction in their Charge dated 15 November 2021.

Football NSW could not demonstrate that there was any precedent that supported this position. As a matter of logic and equity, the Tribunal could not support this submission.

Further, it was clear to the Tribunal that the Respondent did not fully understand the court proceedings and that he was unable to properly advise the Tribunal what happened some five years ago. His Counsel, Mr Koimanos, was not his legal adviser at that time and therefore did not have instructions relating to that court appearance. The Tribunal accepted that inconsistencies in the Respondent's evidence were inadvertent and that at no time did he seek to lie or conceal any facts.

### Charges 2 & 3

Whilst the Tribunal found that the Respondent must be held responsible for the errors made by his girlfriend resulting in the creation of multiple Play Football accounts, it accepted that this was inadvertent and not done to deliberately conceal his prior suspensions.

The Respondent did NOT use any false names or data and the differences were minor and insignificant. If the Play Football system was efficient then it would have easily detected the errors made and prompted the creator to merge accounts. There was no attempt to mislead.

In relation to Charge 3, the Respondent had not served all of his suspensions when he played for Polonia Rams. However, as a considerable amount of time had passed the Tribunal accepted that he was unaware of the outstanding suspensions.

## Sanctions Imposed

### Charge 1

The assault of a Match Official is a VERY serious charge and, as the Respondent was advised by the Tribunal, usually results in a Life sanction.

Football NSW could not explain why it had elected to issue the Respondent with only a three (3) year sanction in 2017 and notwithstanding that it was within the power of the Tribunal to substitute that with a lengthier term, the Tribunal held that in this matter given that:

1. The prior Determination of three (3) years was issued by Football NSW in 2017;
2. The failure of Football NSW to follow up;
3. The fact that the original assault matter was not reheard; and
4. The considerable period of time that had passed since 13 August 2017;

the Tribunal did not believe it was equitable to substitute a different sanction.

The Respondent had served two (2) years and eleven (11) months and therefore must serve a further **one (1) month's suspension**.

### **Charge 2**

For the reasons noted above, the Tribunal determined that the Respondent should be suspended for **three (3) months** under this charge.

### **Charge 3**

For the reasons noted above, the Tribunal determined that the Respondent should be suspended for **three (3) months** under this charge. This suspension may be served concurrently with the suspension imposed under Charge 2.

### **Total Sanction**

The Respondent is to serve the Time Suspension in accordance with section 15.5 and includes all football related activities. As the Time Suspension coincides with a non-playing period as set out in section 15.5(c) of the Regulations, this non-playing period cannot count towards this suspension. The Respondent must therefore advise Football NSW when he registers for a club so that Football NSW may advise the Respondent when the non-playing period terminates.

The Respondent had a further **seven (7) Fixtures** to serve under the prior sanctions and these too must be served after the completion of the above sanctions relating to Charges 1, 2 and 3.

The Respondent is to serve the Fixture Suspension generally in accordance with section 15.6 of the Football NSW Regulations. This means that he is suspended for a total of four (4) months and then an additional seven (7) Fixtures.

For clarity: The Time Suspension commences on 1 March and expires four (4) months after that date subject to any non-playing period as calculated by Football NSW and that date may only be determined once the Club with which the Respondent registers is known. Thereafter the seven (7) Fixtures suspension commences.

The Respondent will be required to register with a club recognised by Football NSW and serve the outstanding 7-Fixture suspension with that club in accordance with the National Disciplinary Regulations.

In order to satisfy Football NSW that this Fixture suspension has been properly served, the Respondent's club will need to record the Respondent as "stood down" on the team sheet for 7 competition matches and the Respondent will be required to submit those team sheets to Football NSW prior to resuming playing.

The Tribunal will permit the Respondent to continue train with his club throughout the whole period of suspension so that he has the opportunity to mentor and assist juniors and thereby ensure that others do not similarly offend.

**Fines Imposed**

NIL.

**Football NSW Limited**

PO Box 6146, Baulkham Hills BC NSW 2153 | 235 – 257 Meurants Lane, Glenwood NSW 2768  
Phone: +61 2 8814 4400 | Fax: +61 2 9629 3770 | [www.footballnsw.com.au](http://www.footballnsw.com.au) | ABN 25 003 215 923

<b>Bonds Imposed</b>	Given that the Respondent was charged and pleaded guilty to the assault of a Match Official and received a very low sanction, the Respondent is to be placed on a good behaviour bond of two (2) years. This bond is to commence on the expiration of the seven (7) Fixture suspension and the Respondent is to notify Football NSW of the date he claims this Fixture suspension has been served. Any breach of this bond will result in a suspension from all football related activities for a period of two (2) years.
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**Additional Matters and Fees as per the Notice of Costs:**

The Respondent is to pay the full costs of the Tribunal process as assessed by Football NSW. A Final Determination will **not** be produced.

**Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with sections 9.8 and 10 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 12) to [tribunal@footballnsw.com.au](mailto:tribunal@footballnsw.com.au) with the relevant Application Fee within 7 working days of the Final Determination of the GPT (where the GPT has indicated one will be issued) being sent to the Respondent.**

**Please note that the FNSW Appeals Tribunal may vary, by way of reduction or increase, any sanction, measure or order imposed by the FNSW General Purposes Tribunal without the necessity to provide any prior notice to any party to the appeal of its intention to do so.**



**David P. Lewis  
Chairman  
GENERAL PURPOSES TRIBUNAL**