Tom Brady and the "More Likely Than Not" Standard

There's been much ado about lawyer/investigator Ted Wells’ finding that it was "more likely than not" that Tom Brady, among other New England Patriots and staff, knew that footballs for the AFC Championship Game had been deflated, in violation of league rules. Many commentators have fussed about this standard, confused about the rules in these kinds of investigations.

http://www.washingtonpost.com/blogs/early-lead/wp/2015/05/11/will-roger-goodell-suspend-tom-brady-this-week/

A judge or a jury in a criminal case must find the defendant guilty "beyond a reasonable doubt", a much higher standard than a civil case, where the standard is a "preponderance of the evidence", or "more likely than not." Workplace investigations have yet a different standard. The requirement is to do a "full and fair investigation" and come to a "reasonable conclusion." Even if the results of that investigation ultimately turn out to be wrong, the organization is protected if it has met the workplace investigation standard.

While most of us don’t have Brady's workplace - throwing a ball around on the grass with thousands of maniacs screaming at us, for which we're paid millions of dollars - the standard is the same. While I haven't examined Wells' investigation in order to determine if it was done properly, I can say that many of the commentators are wrong when they question whether Brady should be implicated based upon the "more likely than not" standard. Most likely, they think the standard should be much higher and are fuming about the lack of meeting the "beyond a criminal doubt" standard. If you're involved in a workplace investigation, the Wells' standard would also apply.

It's just different rules, different game, guys.

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