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## **DECISION ON APPEAL**

Appeal #2013-02  
B & ROLLY v MPYC  
Spring Series – Race #4  
Monterey Peninsula YC, Monterey Bay, CA

19 June 2013

### **SUMMARY OF SITUATION:**

On 21 April 2013, ROLLY and B were two Shields class boats competing in a one-design race, Race #4 of the Monterey Peninsula Yacht Club's Spring Series. The Race Committee (RC) made a Warning signal for the race. Between 1:20 and 1:30 after making the Warning signal, the RC made a Preparatory signal. Three minutes after making the Preparatory signal the RC made the One Minute signal. One minute after making the One Minute signal the RC made the Starting signal. Observing that AILEEN, ROLLY, and B were on the course side of the starting line, the RC promptly made the Individual Recall signal. Neither AILEEN, ROLLY, nor B returned and re-crossed the starting line. The RC scored AILEEN, ROLLY, and B OCS.

ROLLY and B submitted separate requests for redress claiming that the RC's improper timing action caused them to be OCS. During a combined hearing on 1 May 2013, the PC decided that neither ROLLY nor B met the requirement in RRS 62.1 that their OCS score was 'through no fault of their own' and denied the request.

On 2 May 2013 ROLLY submitted a request to re-open the hearing claiming that the PC had erred and that they had significant additional evidence, specifically Kattack tracking data. On 3 May 2013 the PC denied the request to re-open on the basis that the Kattack data had been available but was not presented at the original hearing and therefore was not "new" and that no significant errors had been made by the PC.

ROLLY (5 May 2013) and B (6 May 2013) submitted separate appeals claiming that the PC improperly considered the effect of the timing error on their being OCS.

The AAC has chosen to combine the two submissions into a single appeal.

### **FACTS FOUND BY THE PROTEST COMMITTEE:**

1. Eleven or twelve boats were in the starting area for the Shields start.
2. In race 4 of the Shields class the RC made the Warning signal 5:20 to 5:30 (min:sec) before the Starting signal.
3. The Preparatory signal, One Minute signal, and Starting signal were timely.
4. At the Starting signal AILEEN, ROLLY, and B were more than 20 seconds over the starting line.
5. No other boats were over the line.
6. The RC signaled Individual Recall (X flag and horn) promptly and flew the X flag for four minutes.
7. Neither AILEEN, ROLLY, nor B returned to the restart.
8. B realized there was a timing error between the Warning and Preparatory signals but did not check the timing of the following signals.
9. ROLLY realized there was a timing error between the Warning and Preparatory signals but did not check the timing of the following signals.
10. ROLLY observed the class flag was displayed when she was on the course side of the starting line

11. ROLLY observed the Individual Recall signal.
12. AILEEN observed the Individual Recall signal.
13. B did not look for an Individual Recall signal after the start.
14. The RC score given AILEEN, ROLLY, and B was OCS. (This fact was cut off on the original protest form but supplied by the PC in their comments on the appeal.)

**PC's CONCLUSIONS AND RULES THAT APPLY:**

1. By not signaling the Warning signal at 5:00 before the Starting signal the RC made an error under RRS 26.
2. (B's request)  
By not checking the timing of other timing signals and being well over the line at the starting signal, B is partly responsible for her OCS score.  
(ROLLY's request)  
By not checking the timing of other timing signals, observing the class flag displayed after being on the course side of the line and observing the Individual Recall signal and not returning to the start, ROLLY is partly responsible for her OCS score.
3. (B's request)  
B has not met the 'no fault of her own' requirement of RRS 62.1.  
(ROLLY's request)  
ROLLY has not met the 'no fault of her own' requirement of RRS 62.1.

**PC's DECISION:**

Redress is not given.

**BASIS FOR APPEAL BY B AND ROLLY:**

**B**

1. As the RC is governed by the rules per RRS 85 and since RRS 26 was broken by the RC the race is invalid.
2. The PC failed to limit their deliberations to a single incident. The incident was the timing error made by the RC. The PC chose to investigate the actions and observations of the competitors rather than focusing solely on the timing error made by the RC.
3. There is no rule requiring a competitor to observe all the starting signals prior to the starting signal.
4. The PC failed to observe RRS 2, Fair Sailing, by ignoring the opinions of those in the hearing who felt that the race should be re-sailed.

**ROLLY**

1. The PC failed to properly consider and apply the correct definition of *Start* and *Starting Signal*.
2. The PC failed to consider that there is no rule that requires a yacht to observe starting signals after the Warning signal.
3. The PC failed to limit the hearing to a single incident. The subject of 'incorrectly scored' is a separate incident from the timing error.
4. The PC allowed the race to stand after if concluded the RC improperly displayed a signal governing the start of a race contradicting RRS 85.
5. The PC failed to consider the meaning of 'promptly displayed' as clarified in Case 79.
6. The PC failed to consider an appropriate and fair form of redress.
7. The PC failed to consider RRS M4 when deciding whether or not to re-open the hearing.
8. The PC failed to consider the opinion of the parties and witnesses that the race should be re-sailed.
9. The PC failed to consider RRS 2, Fair Sailing.

## DECISION OF APPEALS COMMITTEE:

The Appeals Committee upholds the decision of the Protest Committee. Because the boats were signaled as being OCS and failed to return and start properly, thus breaking RRS 28.1, they contributed to the score of OCS that they received. As a result the boats did not meet the 'through no fault of her own' requirement of RRS 62.1 and are not eligible for redress.

Specifically addressing the points raised by the appellants:

- B and ROLLY are incorrect in their interpretation of RRS 85. Failing to correctly execute a procedure outlined in a rule does not mean that the RC has failed to be governed by the rules or did not intend to be governed by the rules. (B #1, ROLLY #4)
- An incident is not confined to a single action or instant in time. Rather, an incident is a collection of actions over a period of time during which specific rules can be applied. In this case, the incident is the entire race and the effect that the timing error had on the outcome of the race and the resulting scores for some of the boats involved. (B #2, ROLLY #3)
- There is no rule that the competitors must observe any RC signals, including the Warning signal. However, the definition of *start* and RRS 28.1 are rules that must be obeyed by the boats. (B #3, ROLLY #2)
- The wishes of the participants in the hearing with regards to possible redress may not be considered until the PC has determined that all requirements for granting redress have been met. In this case, the PC determined that the requirements for redress were not met and therefore any discussion about what the possible options for redress are is moot. Additionally, when considering possible redress options, the PC must consider all boats effected, including those who started correctly. (B #4, ROLLY #6, #8)
- RRS 2, Fair Sailing, only applies to "a boat and her owner". It does not apply to a PC. (B#4, ROLLY #9)
- ROLLY is incorrect in her assertion that the PC failed to properly apply the definition of *start* or the Race Signals. RRS 26 describes the timing of the starting signals relative to the Starting signal, not the Warning signal. This means that the Starting signal cannot be late or early. It is the basis from which all other times are taken. It is not possible to know whether the Warning, Preparatory, or One Minute signals were made at the proper time until the Starting signal is made. (ROLLY #1)
- Case 79 is not applicable. There is no fact found or evidence to suggest that the RC failed to display the Individual Recall signal promptly after the Starting signal was made. Based on the facts found both ROLLY and AILEEN observed the Individual Recall signal. (ROLLY #5)
- Appendix M of the RRS provides recommendations for PCs and describes 'best practices'. It is not required that the PC adhere to the recommendations. In this case, the PC met the requirements of RRS 66 and, as no significant new evidence that ROLLY was not OCS was presented with the Kattack data and there was no reason to believe that they had erred, the PC was well within their discretion to deny the request to re-open the hearing. (ROLLY #7)

THE APPEALS COMMITTEE OF THE YACHT RACING ASSOCIATION OF SAN FRANCISCO BAY.

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