



THE YACHT RACING ASSOCIATION of SAN FRANCISCO BAY
1070 MARINA VILLAGE PARKWAY, SUITE 202-G
ALAMEDA, CALIFORNIA 94501
Phone: 415-771-9500; Fax: 415-276-2378
E-mail: info@yra.org

DECISION on APPEAL: AAC 16-03; Wings, 5.5 Meter sail #31 v. OYC Protest Committee
Oakland Yacht Club Wednesday evening Race, 25 May, 2016

July 15, 2016

SUMMARY OF SITUATION

On Wednesday evening May 25, 2016 the Columbia 5.5 Meter Class participated in a race of the Sweet 16 Series, a series of races held between April 27 and June 15. On that evening an incident occurred between 5.5 Meter boats *WINGS* and *JAGUAR* in the starting area. After the race *WINGS* and *JAGUAR* each filed a protest. The Protest Committee heard the protest filed by *WINGS* on June 2, 2016.

US Sailing received a request to appeal the decision of the Protest Committee on June 6, 2016 from *WINGS*. After some additional correspondence between US Sailing and *WINGS*, the appeal was forwarded to the Appeals Committee of the Yacht Racing Association of San Francisco Bay on June 13, 2016.

FACTS FOUND BY PROTEST COMMITTEE:

- Protestor hailed protest @ time of incident
- Protestor tacked after incident then flew Flag.
- Protestor displayed Flag 45 sec to 1.5 min after incident
- Protestee did not hear hail nor see flag.
- flag was approx. 4x8" in size on Columbia 5.5, 32.5' LOA

CONCLUSIONS, APPLICABLE RULES, AND DECISION OF PC:

Protest Flag was too small (hard to see) - not conspicuous
Protest Flag was not displayed @ first reasonable opportunity 61.1(a)
Protest or request invalid; hearing is closed.
Protest dismissed.

APPELLANT BASIS FOR APPEAL:

- After avoiding a collision, two of the three people on board worked to tack the boat and the other person started to display the flag, this entire task was completed within 30 to 40 seconds.
- Appeal 82 suggests that the time that's necessary to avoid a collision is acceptable within the rule, and says the time taken to set a spinnaker is also acceptable; setting a kite would take much longer than tacking.
- ...by avoiding a collision, tacking and displaying the flag within 30 to 40 seconds, *WINGS* fully complied with the rule in both its wording and in its intent.
- There are a two factual errors in the judge's document. The first error is that he omitted our avoiding a collision before tacking, and the second error is that, during the hearing, he acknowledged me saying that the delay was 30 to 40 seconds. Not 45 seconds to 1.5 minutes.
- Regarding the size of the flag, it was not mentioned during the hearing and is it relevant to his reason for disallowing the protest?

ASSOCIATION APPEALS COMMITTEE DECISION:

The appeal is denied. The decision of the Protest Committee is upheld.

The Association Appeals Committee reminds the appellant that the PC is responsible for finding the facts. Having heard the evidence of the parties and any witnesses, it is in a position to weigh the evidence and ask questions of the parties and any witnesses to resolve conflicts in that evidence. Several claims of the appellant include assertions that the facts found by the PC are not correct or are missing. Rule 70.1(a) does not allow the appellant to appeal the facts found by the PC.

The appellant cites US Sailing appeal 82 to support claims that rule 61.1(a) was not applied correctly by the PC. In that appeal that PC found the protest valid. The circumstances in that appeal were: "...V-751 sailed the offset leg with all crew members hiking to windward to prevent the boat from capsizing. She then bore away around the offset mark, set her spinnaker and displayed her protest flag. The flag was displayed within 12-20 seconds..." In appeal 82, the crew were occupied keeping the boat under control and then setting a spinnaker before displaying the flag. Delaying 12-20 seconds in displaying the red flag in those circumstances was accepted as the first reasonable opportunity to do so. In the appeal at hand the appellant has not demonstrated that the second conclusion of the PC that the flag was not displayed at the first reasonable opportunity, in this case for the crew of a Columbia 5.5 Meter to require 45 sec. to 1.5 min. to tack and then display the red flag, was incorrect with regard to rule 61.1(a).

The appellant asks about the relevance of the size of the flag in the decision of the PC. The AAC draws the appellant's attention to the first conclusion of the PC. The PC concluded the flag was too small and not conspicuous. Rule 61.1(a) requires a boat "conspicuously display a red flag". The appellant has not asserted nor demonstrated that the first conclusion of the PC regarding rule 61.1(a) was incorrect.

Since the PC concluded the requirements of rule 61.1(a) were not met and found no fact that would cause any of the exceptions in 61.1(a)(1-4) to apply, the PC was required by rule 63.5 to declare the protest invalid and close the hearing, which it did.

Best Regards,

The Appeals Committee of the Yacht Racing Association of San Francisco Bay
Michael Gross, Chair

Cc:

Mike Jackson - Appellant

John Super - PC Chair

Keith Rarick - Party

Appeals Committee Members:

Vickie Gilmour

Paul Kamen

Tom Roberts

John Siegel