



AMERICA'S CUP 32

AMERICA'S CUP JURY JURY NOTICE JN023 Jury Decision ACJ009



23rd June 2005
3 pages

To: Challengers and Defender
Copies: ACM, Chief Measurer, Jury, Umpires, Media Centre

JURY HEARING 21st June 2005 09h30 local in Valencia

REQUEST by Luna Rossa for the Jury to consider giving redress in respect of an alleged serious interference by an umpire boat in Flight 8 Match 4 ITA 74 (Luna Rossa) v USA 76 (BMW Oracle) on the 20th June 2005.

1. By letter received on the 20th June 2005 Luna Rossa requested it be given an opportunity to satisfy the Jury that it should consider giving redress to ITA 74 in accordance with Racing Rules of Sailing (RRS) rule C.9.2¹.
2. The incident involved an overboard spinnaker sheet becoming entangled in an umpire boat's propeller, allegedly seriously affecting Luna Rossa's progress.
3. The Jury granted Luna Rossa the opportunity to present evidence and make submissions. The Jury further advised that should it decide to consider giving redress, BMW Oracle would be given the opportunity to give evidence and make submissions.

Jurisdiction

The Jury Chairman advised that one of the five appointed Jury members was not available, and that the remaining members of the Jury believed that there was an urgent need to resolve the issue and that resolution could not be reasonably delayed without disrupting the Event (Protocol, Article 21.1(c)²).

The Jury Chairman also advised that two of the four appointed members of the Jury were also members of the appointed Umpire's Group, and that the Jury Chairman was also the Chief Umpire.

¹ RRS C9.2 'A competitor may not base a request for redress on a claim that an action by an official boat was improper. The protest committee may decide to consider giving redress in such circumstances but only if it believes that an official boat, including an umpire boat, may have seriously interfered with a competing boat.'

² Protocol, Article 21.1(c) 'Size of the Jury: A quorum for meetings of the Jury shall normally be five. However, a matter within the jurisdiction of the Jury may be resolved by a quorum of fewer than five members, provided ... the parties to the matter mutually agree to, and the Jury Chairman approves, the reduced number of Jury Members.'

Both Luna Rossa and BMW Oracle representatives agreed the four members of the Jury present should hear all matters concerning this request and, if appropriate, conduct a hearing.

Evidence and Submissions

Evidence was heard from Luna Rossa's helmsman, James Spithill, in association with video evidence. Mr Spithill stated that while rounding a leeward gate mark or shortly thereafter, a trailing spinnaker sheet from Luna Rossa became entangled in the propeller of the umpire boat which crossed and followed astern of Luna Rossa. This entanglement caused the spinnaker to be pulled from Luna Rossa and necessitated it to be cut and lost overboard.

Submissions were made by representatives of Luna Rossa and BMW Oracle on whether the Jury should conduct a Redress hearing pursuant to RRS 62.1³.

Luna Rossa submitted that the requirements of RRS C.9.2 were satisfied and that the Jury should consider giving redress.

BMW Oracle submitted that notwithstanding that there was interference, such interference was not serious, and that therefore the Jury should not consider giving redress.

DECISION ON WHETHER TO CONDUCT A HEARING

The Jury found that the umpire boat had seriously interfered with Luna Rossa. The Jury accordingly directed that a Redress hearing pursuant to RRS 62.1 take place immediately.

The Hearing

James Spithill gave further evidence that Luna Rossa, after lowering her spinnaker to round a leeward mark, was trailing approximately 20 metres of spinnaker sheet astern, and that this was a normal procedure and that the sheet was therefore in a normal position. The umpire boat in crossing and following astern, had 'gone a little too close' and 'made a mistake', thereby causing the entanglement. He further submitted that this caused Luna Rossa to lose speed and fall to leeward, restricted her ability to tack, and deprived her of the use of that spinnaker for the remainder of the race. It was therefore submitted that through no fault of her own, her position was made significantly worse by the improper action of the umpire boat.

John Standley, the umpire driving the umpire boat, gave evidence that in crossing and following astern of Luna Rossa, he had followed normal umpire procedure and had maintained normal and usual positioning. He confirmed the entanglement with the spinnaker sheet, and the effect on Luna Rossa.

³ RRS 62.1: 'A request for redress or a protest committee's decision to consider redress shall be based on a claim or possibility that a boat's score in a race or series has, through no fault of her own, been made significantly worse by ... an improper action ... of the race committee ...'

Luna Rossa submitted that though no fault of her own, her finishing position was made significantly worse by an improper action of the umpire boat, and that therefore all the requirements for granting redress had been met and that she was entitled to redress.

BMW Oracle presented no evidence, but made submissions that the umpires had not acted improperly and that therefore Luna Rossa was not entitled to redress.

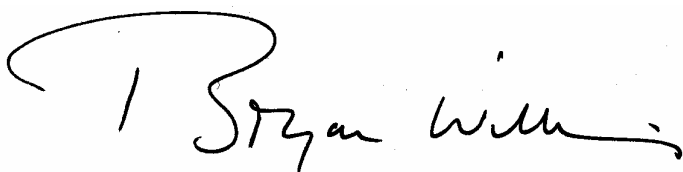
The Conclusions and the Decision were given verbally at the close of the hearing

CONCLUSIONS

The Jury found that the umpire boat, in passing and travelling astern of Luna Rossa, was in its normal position for a leeward mark rounding in the prevailing conditions. The Jury was satisfied that there was no improper action by the umpires, and that therefore the requirements of RRS 62.1 had not been met.

DECISION

The Request for Redress was denied.

A handwritten signature in black ink that reads "Bryan Willis". The signature is written in a cursive style with a large, looping initial "B".

Bryan Willis

America's Cup Jury:

Graham McKenzie, Henry Menin, David Tillet, Bryan Willis (Chairman)