



AMERICA'S CUP 32

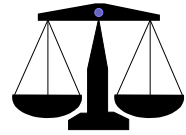
AMERICA'S CUP JURY JURY NOTICE JN042

1st July 2006

Protest: Victory Challenge v Mascalzone Latino-Capitalia Team

JURY HEARING ACJ018, 30th June 2006

3 pages



To: Challengers and Defender, ACM, Chief Measurer (“Parties”)

Protest by Victory Challenge SWE 63 v Mascalzone Latino-Capitalia Team ITA 77

Date of incident: 30th June 2006 Semi-final Series Division 2

[1] Victory Challenge delivered a protest at 20h02 30th June.

[2] Victory Challenge submitted that:

“There were two finishing lines set up, approximately 450 meters apart. The incident occurred approximately 4/5 of the way down leg 4, and well before the yachts were near the finishing line area. ITA 77 called the race committee on the radio and asked which one of the finishing lines the race was finishing at. The race committee responded with a description of the correct finishing line. Mascalzone gybed shortly after receiving the information from the race committee and sailed to the correct finishing line.

The race committee had properly called the yachts’ attention to the change of course for the finishing line before the yachts arrived at the windward mark beginning leg 4. Both yachts acknowledged receipt of the information at that time.

The help ITA 77 received was clearly a breach of rule 41, Outside Help. They solicited the information, so the information is not permitted by rule 41(e). The information was critical in informing them where to finish. Had they not received the information, and had they chosen to finish at the other finishing line in the vicinity, SWE 63 would have won the race.”

Validity of the Protest

[3] The time limit for delivering protests was 20h08. The protest was delivered within the time limit

[4] Immediately after the incident occurred, Victory Challenge displayed a red flag. As soon as they finished the race, they advised the course Umpires of the protest (but not what it was about) and when Victory Challenge reached the dock, they telephoned Mascalzone Latino-Capitalia Team to inform them of the protest.

[5] The Jury determined that the requirements of Racing Rules of Sailing (RRS) Appendix C6.1(b) and C6.4(b) had been met and that the protest was therefore valid.

Submissions

Victory Challenge Submissions and Evidence

[6] Dave Perry and Magnus Holmberg made submissions.

[7] They submitted that Mascalzone Latino-Capitalia Team made a radio call to the Principal Race Officer (PRO) of the Juliet course, and asked for information as to which of two finishing lines applied.

[8] They further submitted that the response by the PRO provided information, which was a breach of RRS rule 41 (Outside Help) and may have had a significant effect on the outcome of the race.

[9] Evidence was given by Johan Barne in respect of the 'change of course' radio call at the windward mark and the subsequent radio call made to the PRO by Mascalzone Latino-Capitalia Team. He advised that Mascalzone Latino-Capitalia Team received information as to which of the two finish lines they should use.

Mascalzone Latino-Capitalia Team Submissions and Evidence

[10] Cameron Dunn and Vasco Vascotto made submissions. There were two finish lines in place. Approximately two minutes before the finish, their navigator (Nacho Postigo) called the PRO on their 'pink dot' radio asking "From the two arriving lines, please confirm that ours is the most southern".

[11] They submitted that ITA 77 was already set up to finish at the more southern of the two finish lines which was the correct finish line. Both of the two finish lines had a green buoy at one end and a race committee boat at the other.

[12] Nacho Postigo gave evidence that the radio call response they received was "your arriving line is between a green buoy and a race committee boat flying an orange flag", and that this did not answer the question they asked, and did not help them. The information received was only a portion of the information that they had already received and heard from the PRO at the windward mark.

Race Committee Evidence

[13] Harold Bennett the Juliet course PRO gave evidence.

[14] He said that at the windward mark he had called both boats on the 'pink dot' radio advising that there had been a course change to '295 degrees' and identified the finish line as being "... between the Port Judge boat with the orange flag and the green buoy... and not the race committee boat". He received confirmation from both boats that they had received the radio call.

[15] He further advised that the radio call he received from Mascalzone Latino-Capitalia Team was a request to clarify the finish line and his response was to provide the same

information he had previously given at the windward mark radio call. No clarification or additional information was provided.

Oral Decision

[16] A summary of the Conclusions and the Decision was given orally at the close of the hearing.

Conclusions

[17] Mascalzone Latino-Capitalia Team solicited information from the Race Committee.

[18] The Race Committee responded by giving information which simply repeated a portion of the information previously broadcast and received by both boats. The information was not 'help' in terms of RRS rule 41.

[19] The particular information solicited was not provided. The information given by the Race Committee was unsolicited. RRS rule 41 was not broken because Rule 41(e) applied.

[20] RRS rule 41, Outside Help states: 'A boat shall not receive help from any outside source, except ... (e) unsolicited information from a disinterested source ...'

Decision

[21] Rule 41 was not broken. The protest is dismissed.

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

Bryan Willis

America's Cup Jury:
Graham McKenzie, Henry Menin, David Tillett, Bryan Willis (Chairman)