AUSTRALIAN SAILING

Australian Sailing Appeal Decision

2023-08 Vincero (AUS1343) v Zara (1612)

Appeal by Zara. Lodged on 20 October 2023

Arising from an incident between two boats competing in different races conducted 14 October 2023 on Sydney Harbour. The protest was heard on 17 October 2023.

The following people have been appointed to the Appeal Panel for this appeal by Australian Sailing: Damien Boldyrew AUS (IJ, IU) Chair Murray Jones AUS (NJ) Paul Pascoe AUS (IJ, NRO) Philippe Mazzard FRA (IJ, NU) Edmond Vincent AUS (NJ, NRO, CU)

The Protest:

The protest committee addressed validity as follows:
The protest was received by the race office within the time frame allowed in the SIs.
AUS1343 hailed protest. AUS1343 did not display a red flag.
As the damage to AUS1343 was serious (bent mast) the requirements of RRS61.1(a) do not apply, as per 61.1(a)(4). 1612 was informed of the protest within the protest time limit of RRS 61.3, as amended by the SIs. This was not challenged by 1612

The protest committee found the following facts:
1. AUS 1343 was competing in RSYS Etchells Club Championship Race 3
2. 1612 was competing in SASC Classic Overall Series Race 5.
3. At the time of the incident:
    a. The wind was approximately 5-8 knots
    b. The sea state was calm
4. AUS1343 was on starboard gybe having just crossed their finish line
5. Based on the weight of evidence, including an independent witness from another boat, 1612 was to windward of AUS1343 on port gybe.
6. 1612 collided with AUS1343 on the rear starboard side slewing her sideways and entangling the backstay.
7. The resulting entanglement bent the mast of AUS1343 which fits the definition of “serious damage”.
8. Neither boat carried out a penalty turn.

The protest committee went on to conclude:
1. AUS1343 is stilled deemed to be racing as per RRS Definitions “...clears the finishing line and marks...”
2. 1612 on port gybe was the keep clear boat (RRS10)
3. 1612 failed to keep clear and avoid contact (RRS14)
4. It was not reasonable possible for AUS1343 to take any action that would have avoided contact from the time it was clear that the other boat was not keeping clear (RRS14)

Rules Applicable RRS 10, RRS 14

The protest committee decided the following
Zara (1612) is to be scored DSQ in Race 5 of the SASC Classic Overall Series

The Appeal summary:

The grounds of appeal are:
1. The protest is invalid because the protesting boat Vincero [AUS1343] did not fly a red protest flag.

2. The fact in Item 5 is incorrect. Zara [1612] was sail on starboard tack and Vincero [AUS1343] changed course without giving Zara room and opportunity to avoid collision.

Appeal Panel discussion and conclusions:

Ground 1:

The protest is invalid because the protesting boat Vincero [AUS1343] did not fly a red protest flag.

As a result of the incident, AUS1343 sustained a bent mast. When addressing the validity of the protest as required by rule 63.5, the protest committee concluded the bent mast to be serious damage. This conclusion accords with World Sailing Case 141.

Where injury or serious damage results from an incident in the racing area, the requirement to hail 'Protest' and conspicuously display a red flag at the first reasonable opportunity for each, do not apply as provided for within rule 61.1(a)(4). Under rule 61.1(a)(4) the protesting boat shall attempt to inform the other boat within the time limit of rule 61.3, which AUS1343 did.

Ground 1 is rejected.

Ground 2:

The fact in Item 5 is incorrect. Zara [1612] was sail on starboard tack and Vincero [AUS1343] changed course without giving Zara room and opportunity to avoid collision.

Ground 2 challenges a fact found by the protest committee. Under RRS 70.1(a) a party may appeal a protest committee's decision or its procedures but not the facts found.

Ground 2 is rejected.

Appeal Panel decision

For the reasons stated above the appeal is dismissed.