

Racing Rules Committee

New Case

A submission from the Chairman of the Racing Rules Committee

Purpose or Objective

A new case that provides useful interpretations of rules 43.1(a) and 43.1(b) and, if Option 2 is approved, rule 2.

Proposal

Add the following new case to *The Case Book*:

Option 1 (Note that the 'Assumed Facts' are the same in Options 1 and 2.)

CASE XXX

Rule 31, Touching a Mark

Rule 43.1(a), Exoneration

Rule 43.1(b), Exoneration

A boat that touched a mark and claims that she is exonerated by rule 43.1(a) or 43.1(b) must, if protested, satisfy the protest committee that the condition stated in rule 43.1(a) or the condition stated in rule 43.1(b) was met.

Assumed Facts

A fleet of dinghies, 5 metres in length and sailed single-handed, were approaching a windward mark that they were required to leave to port. Several boats were on starboard tack and sailing close-hauled on, or above, the starboard-tack layline. One of them, IL, touched the mark, and did not take a penalty. The race committee observed this and protested IL.

In the hearing, IL agreed that she had touched the mark, but said that she was compelled to do so because a boat overlapped to windward of her did not give her mark-room. IL testified that she did not know the identity of the other boat. She was unable to provide any description of that other boat. She testified that she did not know that boat's hull colour and or any feature of the other boat or her helmsperson. There was evidence given during the hearing that there were other boats near IL while she was in the zone, but there was no evidence given, other than IL's testimony, that there was a boat overlapped outside IL when she touched the mark.

IL testified that, even though she knew she had touched the mark, she did not hail 'Protest' at any time after she touched the mark. The representative of the race committee stated that he was certain that no boat took a penalty at that mark.

The protest committee disqualified IL for breaking rule 31. IL appealed on the grounds that she was exonerated by rule 43.1(a) or 43.1(b).

Decision

When IL touched the mark, she broke rule 31. If the protest committee had been able to establish as fact that there was a boat overlapped outside IL that was required to give IL mark-room but failed to do so, then IL would be exonerated by rule 43.1(b) for her breach of rule 31. Alternatively, IL would be exonerated by rule 43.1(a) if the committee had been able to establish as fact that there was another boat that broke a rule and, as a consequence of that breach, IL was compelled to touch the mark.

The protest committee was not able to establish that there was such a second boat and, therefore, IL was not exonerated and the committee's decision to disqualify her was correct. IL's appeal is denied.

Option 2**CASE XXX****Rule 2, Fair Sailing****Rule 31, Touching a Mark****Rule 43.1(a), Exoneration****Rule 43.1(b), Exoneration**

A boat that touched a mark and claims that she is exonerated by rule 43.1(a) or 43.1(b) must, if protested, satisfy the protest committee that the condition stated in rule 43.1(a) or the condition stated in rule 43.1(b) was met.

Assumed Facts

A fleet of dinghies, 5 metres in length and sailed single-handed, were approaching a windward mark that they were required to leave to port. Several boats were on starboard tack and sailing close-hauled on, or above, the starboard-tack layline. One of them, IL, touched the mark, and did not take a penalty. The race committee observed this and protested IL.

In the hearing, IL agreed that she had touched the mark, but said that she was compelled to do so because a boat overlapped to windward of her did not give her mark-room. IL testified that she did not know the identity of the other boat. She was unable to provide any description of that other boat. She testified that she did not know that boat's hull colour and or any feature of the other boat or her helmsperson. There was evidence given during the hearing that there were other boats near IL while she was in the zone, but there was no evidence given, other than IL's testimony, that there was a boat overlapped outside IL when she touched the mark.

IL testified that, even though she knew she had touched the mark, she did not hail 'Protest' at any time after she touched the mark. The representative of the race committee stated that he was certain that no boat took a penalty at that mark.

The protest committee disqualified IL for breaking rule 31. IL appealed on the grounds that she was exonerated by rule 43.1(a) or 43.1(b).

Decision

When IL touched the mark, she broke rule 31. If the protest committee had been able to establish as fact that there was a boat overlapped outside IL that was required to give IL mark-room but failed to do so, then IL would be exonerated by rule 43.1(b) for her breach of rule 31. Alternatively, IL would

be exonerated by rule 43.1(a) if the committee had been able to establish as fact that there was another boat that broke a rule and, as a consequence of that breach, IL was compelled to touch the mark.

The protest committee was not able to establish that there was such a second boat and, therefore, IL was not exonerated for breaking rule 31.

The protest committee did not consider whether rule 2 was broken in this incident. Rule 2 required IL to 'compete in compliance with recognized principles of sportsmanship'. The first of the Basic Principles, Sportsmanship and the Rules, states that 'competitors . . . are expected to follow and enforce [the rules].' Therefore, the duty to enforce the rules is a 'recognized' principle of sportsmanship. The rules give competitors the right to protest, and that enables them to enforce the rules. Even though IL was not able to identify the boat that she alleged caused her to touch the mark, she could have started the process of protesting that boat by the simple act of hailing 'Protest', and if she had done so, the other boat could have taken a penalty.

By not hailing 'Protest', IL did not take even the simplest step available to her to enforce the rules. Therefore, it is clear that IL did not compete in compliance with a basic principle of sportsmanship and broke rule 2.

IL's appeal is denied. Because the penalty for breaking rule 2 is a disqualification that is not excludable, IL's score is changed from DSQ to DNE.

Current Position

None. The case is new.

Reasons

1. Reason for Option 1 and the first part of the decision in Option 2:

In 2021, rule 62.1(b) was changed so that a boat that requests redress under that rule is not granted redress unless the boat or vessel that caused the injury or physical damage takes a penalty, is found to be at fault or is penalized. Rules 43.1(a) and 43.1(b) imply a parallel result. That is – If a boat that has broken a rule but claims that she is exonerated by rule 43.1(a) or (b), she is not exonerated unless either the 'when' condition at the beginning of rule 43.1(a) or the 'when' condition at the beginning of rule 43.1(b) has been met.

2. Reason for the second part of the decision in Option 2:

It is a basic principle of sportsmanship, as stated in Sportsmanship and the Rules, that competitors are expected to enforce the rules. When a boat claims that she is exonerated as a result of another boat's breach of a rule, she has an obligation to act to enforce that rule. She can at least hail 'Protest' if the other boat does not acknowledge breaking the rule. The simple act of hailing 'Protest' puts the other boat on notice that the hailing boat believes she broke a rule. In many incidents, that hail results in the other boat taking a penalty under rule 44.1 and is, therefore, quite an effective way for a competitor to enforce the rules.
