

Finding of Facts:

Chuck, Tim, and Bob were approaching the weather mark to be rounded to starboard on starboard tack. At the two boat circle, Chuck was clear ahead and Tim had an inside overlap on Bob. Chuck started luffing and slowing so that Bob and Tim caught up to him within the circle. Bob did not provide enough room for Tim to pass outside of Chuck as required. Had Tim tried to round outside of Chuck, he would have hit Bob on the starboard side and Chuck in the rear. Tim instead got a late inside overlap on Chuck and hit both Chuck and the mark. After the collision, all three boats rounded the mark, nobody did turns, and Mark protested.

Analysis of the Jury:

Rule 18.1 applies to Bob and Tim because they were "about to round or pass a mark that they are required to leave on the same side or an obstruction on the same side, until they have passed it." Neither of the exceptions to 18.1 apply. Rule 18.2 Giving Room; Keeping Clear applies. "When two boats are overlapped the outside boat shall give the inside boat room to round or pass the mark or obstruction, and if the inside boat has right of way the outside boat shall also keep clear." Since Chuck was clear ahead this rule applies to Bob and Tim who are both required to stay clear of Chuck under Rule 12 (boat clear astern keeps clear of boat clear ahead). Since Bob was leeward boat, he held right of way by Rule 11 (windward boat keeps clear of leeward boat) and WAS NOT required to keep clear, but WAS required to give room. [This means that Tim is not allowed any more room that required to round the Chuck or the mark.] But even if Bob had been the burdened boat, Rule 18.2(d) turns off rule 16 Changing Course. Since the overlap developed well before the incident, Bob had a continuing requirement to give room (at both the mark and Chuck) and since he was the right of way boat, he cannot claim any exemption or leniency under Rule 15 Acquiring the Right of Way, which only applies to the burdened boat or Rule 16 Changing Course, which is turned off by Rule 18.

When Tim established an overlap to weather of Chuck he was required to keep clear (Rule 11) as the windward boat. He was not allowed to touch the mark (Rule 31). Tim is also obligated by Rule 14 to avoid contact. But this avoiding must be "reasonably possible". It was reasonably possible for Tim to tack to avoid the collision. He is not "entitled" to round the mark with the other two boats. There are exceptions to this rule, but only if Tim is the right of way boat (he wasn't) or if he was entitled to room (he wasn't). So his alternative was to tack, avoid the collision with the mark and Chuck and reround behind everybody and protest Bob for not keeping clear.

Decision: The jury disqualifies both Bob for violating Rule 18 and Tim for violating Rules 11, 14, and 31.

Question 1: Is Chuck an obstruction to Bob and Tim? Quite likely he is. An obstruction is defined as "an object that a boat could not pass without changing course substantially, if she were sailing directly towards it and one of her hull lengths from it." A boat racing is considered an obstruction to other boats if they are required to keep clear of her. But this simply means that Rule 18 applies to keeping clear of the obstruction (Chuck) as well as rounding the mark, so it does not change the decision.

Question 2: Does Rule 64.1(b) let Tim off the hook? Rule 64.1(b) says "When as a consequence of breaking a rule a boat (Bob in this case) has compelled another boat to break a rule, rule 64.1(a) does not apply to the other boat and she shall be exonerated." Rule 64.1(a) is the rule that calls on the protest committee to disqualify Tim for breaking a rule ("whether or not the applicable rule was mentioned in the protest"). This rule does not apply since Bob did not "compel" Tim to break a rule. He could have tacked to avoid the collision.

Question 3: Does Mark have the right to protest boats even if he is not involved in the incident and even if he doesn't know what rules are violated? According to Rule 60.1, a boat may protest another boat for a

breach of a rule of Part 2 if she saw the incident. Mark must inform the other boats at the first reasonable opportunity (Rule 61.1). The protest must be in writing (Rule 61.2), but the rules (if any) broken may be determined during the hearing.

I will add e-mail responses to this, but just as in real decisions, you cannot argue with the facts only with the application of the rules to the facts. Look forward to hearing from you.

Nelson

From: "Tim Dawson" <tim@sales.northsails.com>

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Subject: protest

Date: Mon, 30 Jan 2006 11:56:36 -0500

Just a comment. First on the facts, I hit Chuck, but not the mark. Second I believe that as I looked for room to duck behind Chuck (which I was entitled to) and then realized that Bob had not given me enough room to do so that I would not have had room to tack without hitting Chuck (remember at that point I was clear astern of Chuck headed to leeward of him). In other words I would have hit Chuck during the tack anyway, thus contact was unavoidable. In preparation for a "real" protest hearing, I would have certainly made a case as such and I would not have been thrown out. I firmly believe that with a real jury I would not have been thrown out of that race. I would argue that 64.1(b) does exonerate me. I would also argue that rule 14 is in my favor. I was trying to keep clear of Chuck and Bob kept me from doing so. My last effort to avoid Chuck was to attempt to turn to windward of him but I hit him in trying to keep clear. I think 14(a) gives me the right to choose to go to leeward to Chuck and not be required to avoid him to windward or tack until it's obvious that Bob is not giving me enough room to pass to leeward of Chuck. The wording a right-of-way boat or one entitled to room

(a) need not act to avoid contact until it is clear that the other boat is not keeping clear or giving room, and allows me to try to pass to leeward of Chuck and keeps me from having to tack right away (functionally taking me out of the race). The 14(b) keeps me from being disqualified because there was no damage. Just my opinion.

Tim Dawson