

DECISION

Request No.: 05

Request to Reopen

Event: SFYC Knarr and J/105 Regatta Race Number: 1
Hearing Date: 2021-06-22

PARTIES AND WITNESSES

Request No.: 05: J/105 - 385 - MAVERICK - Mays Dickey
J/105 - 3 - Ne*Ne - Tim Russell

VALIDITY

Objection to Jury: No

Within Time Limit: Within Time Limit within a reasonable time under RRS 66.1

Incident Identified: Yes

Proper Hail: Hail not required

Red Flag Displayed: Not required

Decision: Request Valid

PROCEDURAL MATTERS

The hearing was conducted via Zoom.

All parties, observers and witnesses agreed to be bound by the Code of Conduct.

Ian Charles participated as an observer.

This hearing was called to discuss whether significant new evidence merited a reopening of the Hearing #1 and Hearing #4 under RRS 66.1

FACTS FOUND

1. Maverick presented photos showing the flag that was used aboard Maverick laid out on a flat surface with a tape measure and keys for reference, as well as a close-up of the flag deployed at the dock and a picture of the flag contained in its bag.
2. Maverick argued that there was inadequate time to prepare for the challenge to validity prior to Hearings 1, 2 and 4 because the challenge to validity was unforeseeable.
3. Hearing #1 was conducted 5 days after the incident.
4. Before Hearing #1, NeNe had circulated hearsay evidence to the parties that indicated an intention to challenge validity on the basis of the display of the flag. The PC did not allow NeNe to use the hearsay evidence.
5. During the validity portion of Hearing #1, NeNe challenged the hail and display of the flag and Maverick responded, "I have evidence of my own that I would be happy to share. I have photographic evidence. There are photos of the flag being displayed."
6. Maverick shared 2 images during the validity portion of Hearing #1 to direct the attention of the witnesses and committee to the attachment of the flag and bag on the backstay.

Diagram: Diagram not endorsed

CONCLUSIONS AND RULES THAT APPLY

Rules: 66.1, 61.1, Case 115

1. The hearing to consider reopening was requested within a reasonable time under RRS 66.1
2. The contents of the photos that were provided by Maverick were available prior to the hearing and are therefore not "new" as defined by Case 115.
3. The protest committee considered all of the evidence that was presented during the original hearing and concluded that Maverick failed to display a protest flag conspicuously as required by RRS 61.1. The committee had no doubt that Maverick was equipped with a flag large enough to be conspicuous. The photos that were presented by Maverick to request reopening were not significant.
4. Maverick was given adequate time to prepare for Hearing #1.

DECISION

Date & Time: 2021-06-22 14:00 PDT

Request for reopening denied.

PROTEST COMMITTEE

Chaired By: Paul Zupan (USA)

Committee Members: Danielle Lawson (USA), Tom Roberts (USA)

Printed: 2021-07-07 05:54