

# DECISION

Protest by RC

Request No.: 04

Event: 2022 Swiftsure International Yacht Race Race Number: Juan de Fuca  
Hearing Schedule: 2022-06-02 19:30

## PARTIES AND WITNESSES

**Request No.: 04:** Race Committee

74329 - Wind Child - Rudy Heessels

**Witnesses:** Three crew members gave evidence independently

**Interpreters:** None

## VALIDITY

**Objection to Jury:** No

**Within Time Limit:** Beyond with Good Reason Protest was filed by Race Committee as soon as reasonably possible after receiving information about incident.

**Incident Identified:** Yes

**Proper Hail:** Hail not required

**Red Flag Displayed:** Not required

**Decision:** Request Valid

## PROCEDURAL MATTERS

- The name of the injured individual has been kept confidential by the protest committee
- Hearing held via Zoom - commenced at 1930 PDT June 2, 2022. Parties were dismissed at approx. 2140 and advised that deliberations would take some time. Additional questions were sent to the parties by email on June 4.
- Evidence submitted by the protestor was all third party 2nd and 3rd handwritten testimony from Canadian Coast Guard. PC requested additional information from CCG on June 3, 2022. First hand account was requested from CCG but CCG declined to provide the requested information.

## FACTS FOUND

- At approximately 0000 PDT, Wind Child, a Beneteau first 36s7, was sailing downwind near the west entrance of Race Passage, in 20-25 knots of wind from the west, in heavy seas (1m to 2m), wing on wing under poled out jib and full main on starboard tack with 3 crew and skipper. The weather was overcast and there was no moon. All crew were wearing PFD's and were tethered to the boat.
- While trying to navigate Race passage, Wind Child suffered an accidental gybe, during which a crew member was struck by the mainsheet and blocks. The crew member was knocked unconscious with injuries to his face and head, labored breathing, no eye movement and unresponsive.
- The crew gybed the main back to starboard tack to free the injured crew, then gybed back to port tack. The jib was left poled out to starboard.
- The remaining two crew members moved the injured crew to an upright position and propped him up with boat cushions while the skipper kept the boat under control.
- Approximately 10 minutes after the incident, the navigator of Wind Child called in a Mayday giving their location near race passage, course and status of the emergency. The US Coast Guard responded and said that they would advise the Canadian Coast guard. During this time the foredeck/trimmer tended to the injured crew member.
- The injured crew member was unconscious for at least 5 minutes.
- At approx. 0015 PDT, the Canadian coast guard responded by radio, and advised Wind Child to proceed to Pedder Bay Marina, which was located approximately 4 miles to windward of Wind Child's location at that time, to meet shore side emergency services.
- The skipper and crew of Wind Child discussed the CCG advice and decided that continuing to sail into Victoria Harbor, about 6 - 7 miles downwind, was the fastest and safest way to emergency services instead of turning to windward to Pedder Bay. The navigator had noted that Pedder Bay was shallow with a narrow entrance. The crew of Wind Child were not familiar with Pedder Bay. The navigator asked CCG if there were other options ahead of Wind Child (there were none other than Victoria Harbour or Esquimalt Harbour (2 nm West of Victoria Harbour))
- At the request of the responding Canadian Search and Rescue vessel, a red hand-held flare was ignited to assist

SAR in locating the WIND CHILD.

- At approx. 0045 PDT, the Canadian Search and rescue vessels arrived alongside Wind Child's port side, Wind Child was still sailing downwind at about 7 knots under jib and main.
- The search and rescue crew boarded the vessel and started to tend to the injured crew member. Shortly thereafter, Wind Child took down their jib and continued on course for Victoria Harbour.
- Rescue assessment reported that the injured crew member needed "rapid transit" for emergency health care attention. The rescue crew and crew of Wind Child decided the safest option was for Wind Child to continue to sail to the Victoria Coast Guard dock rather than try to transfer the injured crew into the coast guard vessel in the existing conditions. Wind Child skipper estimated that it would take 40 mins to get to Victoria Harbour.
- At 0125, while sailing to the Coast Guard dock, located 0.5 miles inside Victoria Harbor, Wind Child crossed the entrance to Victoria Harbour, which was the finish line.
- The mainsail was lowered and Wind Child proceeded under power directly to the CCG dock.
- At approx. 0145 PDT, the Injured crew member was assisted in disembarking the boat at the Coast Guard dock and was transferred by ambulance to Victoria General hospital. Wind Child then departed and reported to the Swiftsure Inspection Dock to check in and return the GPS transponder.
- The injured crew member had a maxillofacial depression (broken orbital bone), bruising and lumps around head and face and lacerations that required staples.

**Diagram:** No Diagram Needed

#### **CONCLUSIONS AND RULES THAT APPLY**

**Rules:** RRS 1.1, RRS 41

- The injuries to the Wind Child crew member were significant enough that the crew member was in danger. The crew immediately made sure that the injured crew was in a safe location and provided aid as best they were able before issuing a Mayday call.
- It took approx. 15 minutes after the incident for Wind Child to obtain contact with the Canadian Coast Guard. During this time, Wind Child was proceeding rapidly towards Victoria Harbour, where the SAR team was coming from. When CCG requested that Wind Child proceed to Pedder Bay, Pedder Bay was approx. 4 miles upwind of Wind Child and would have required sailing or motoring upwind into rough conditions which could possibly cause more injury to the injured crew member. Heading to windward in rough seas to Pedder Bay, under sail or power, would likely have taken 45 to 60 mins whereas Victoria Harbour was about 40 - 50 mins downwind. A sailboat is inherently more stable under sail than under power, particularly in rough conditions. Additionally, lowering sails with only one crew able to tend to them would have exposed that crew to significant risk of injury or falling overboard.
- The decision to proceed to Victoria Harbour was based on Wind Child's assessment of the existing weather and sea conditions. The focus of Wind Child's crew was getting aid for the injured crew member, not completing the race - the poled out jib was left 'on the wrong side' - while the crew administered aid and communicated with the CCG. The fact that Wind Child finished the race was coincidence as the finish line crosses the entire harbour entrance and it was crossed as Wind Child proceeded to the Coast Guard dock.
- In the prevailing conditions, the decision by the crew of Wind Child to continue sailing on a course with the wind and seas making good speed towards Victoria Harbor versus attempting to turn and proceed to windward against a heavy sea state at 3-4 knots with limited crew was a reasonable decision.
- In the circumstances as established by the facts, Wind Child gave all possible help to the injured crew member, therefore Wind Child did not break RRS 1.1.
- Wind Child was entitled to the assistance provided by the Canadian Coast Guard under RRS 41(a) and therefore did not break RRS 41.

#### **DECISION**

The Protest is Dismissed.

**Date & Time:** 2022-06-06 21:00 PDT

#### **PROTEST COMMITTEE**

**Chaired By:** Michael Turner (CAN)

**Committee Members:** Rick Hatch (CAN), Jared Hickman (USA)