

Appeal OSA 2003-03
Force 10 (Carolyn Moss) vs Killshot (Robert Wardwell) vs Maia (Chris Colligan)

Final Decision September 1, 2003

Appeal Request:

- (1) Killshot is appealing the decision of the Protest Committee at the recently completed EYC Regatta hosted by the Prince Edward Yacht Club in Picton, Ontario.
- (2) The Appeal is based on Killshots position that they kept clear of the leeward boat and by going faster obtained a position of being clear ahead allowing them to clear the starting line without interfering with the other boats. The Protest Committee in their Facts did not agree and Killshot was disqualified and is appealing the PC decision.

Situation and Protest Committee Decision:

Force 10 was the leeward boat. Maia was to windward of Force 10. Killshot was to windward of Maia. All the boats were overlapped. Force 10 was not able to maintain a close-hauled course. Force 10 hailed Maia to go up. Maia hailed Killshot to go up and Killshot did not respond. Killshot forced both Maia and Force 10 to alter course to leeward so she could clear the RC boat.

Conclusion was made that Rule 11 was applicable and the decision was to disqualify Killshot.

Appeals Committee Response:

- (a) The appellant points out disagreement with the Facts but RRS 70.1 does not permit appeal of the Facts.
- (b) The Facts as described by the Protest Committee support their decision against Killshot.
- (c) The photo "evidence" must be viewed as new evidence and it is then up to the Protest Committee to accept it as such if they see fit and reopen. The photos are too late in the sequence of events to help in developing the facts. The Appeals Committee does not find the photo evidence conclusive and does not support a reopening of the hearing. Any type of phone/video evidence must be accompanied by a time frame, sequence and date etc., to be any way considered as factual evidence.

Appeals Committee Decision:

The Appeal is Dismissed and the Protest Committee decision is confirmed.

OSA Appeals Committee September 2003