

**STATE OF MINNESOTA  
COUNTY OF HENNEPIN**

**DISTRICT COURT  
FOURTH JUDICIAL DISTRICT**

---

State of Minnesota,  
Plaintiff,

vs.

Jessica Rae Sundin,  
Emily Sara Hassing Newberg,  
Sarah Curtis Martin,  
Co-Defendants.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER**

File Nos. 27-VB-24-214283,  
27-VB-24-214546,  
27-VB-24-214282

---

The above-entitled matters came before the Honorable Bev Benson on April 29, 2025, for a Court Trial. Tazio Lombardo, Attorney for the City of Minneapolis, represented the State of Minnesota. Timothy Phillips, Defense Counsel, represented Jessica Rae Sundin, Emily Sara Hassing Newberg, and Sarah Curtis Martin, Co-Defendants. All parties appeared via Zoom.

On April 21, 2025, the State filed a Motion for Joinder of the three files referenced above. At the Court Trial, the Defense did not object to the joinder motion. Each of the three Co-Defendants waived any conflicts of interest and consented to joint representation on the record. The Court then granted the State's joinder motion.

Each Co-Defendant was charged with one count of petty misdemeanor Traffic – Impeding Traffic – Drive at slow speed pursuant to Minn. Stat. Sec. 169.15, subd. 1. Defendant Newberg was charged with a second count of petty misdemeanor Traffic Regulation – Driving Wrong Way on One Way Street pursuant to Minn Stat. Sec. 169.18, subd. 6(a), which the State dismissed on the record at the Court Trial. The State then added a tab charge to each case on the record, charging each Co-Defendant with an additional count of petty misdemeanor Traffic Regulations – Failure to obey traffic control device pursuant to Minn. Stat. 169.06, subd. 4(a).

The State called four witnesses: 911 Operator Jacob Dering, Sergeant Aaron Keller, Sergeant Jonas Hanggi, and Officer Caleb Arendt. The Defense called one witness: Ted John Mika. The State offered four exhibits, which were received without objection: Exhibit 1) Traffic Camera Video; Exhibit 2) Body Camera Video of Officer Arendt; Exhibit 3) Body Worn Camera Video of Sergeant Hanggi; and Exhibit 4) Body Worn Camera Video of Sergeant Keller.

At the Court Trial, the Defense made a motion for judgement of acquittal, arguing 1) that the State failed to present evidence sufficient to overcome the necessity defense, 2) that the State failed to present evidence that the Defendants entered the intersection against a red light, and 3) that Defendant Sundin was insufficiently identified. In the alternative, the Defense moved the Court to dismiss the charges in the interest of justice.

The Court took this matter under advisement.

The Court makes the following:

### **FINDINGS OF FACT**

1. Jacob Dering is employed by the University of Minnesota's Department of Public Safety as an Operator in the University's Emergency Communications Center. Operator Dering's duties include taking phone calls and monitoring video footage of the University of Minnesota campus. There are many cameras posted around the campus, which feed into a software used to monitor and record the footage from the cameras. A large portion of the cameras have pan, tilt, and zoom capabilities so they can move and zoom in as required.
2. Operator Dering was on duty at approximately 3:45 PM on October 1, 2024. Around this time, Operator Dering's attention was drawn to the intersection of University Ave and 15<sup>th</sup> Ave. There was a large-scale protest occurring on campus at that time, and Operator Dering was monitoring the events of the protest in real time as part of his duties.

3. Exhibit 1 is video footage of the protest occurring near the intersection of University Ave and 15<sup>th</sup> Ave at approximately 3:45 PM on October 1, 2024. The footage shows three vehicles in a line approaching the intersection of University Ave and 15<sup>th</sup> Ave: a dark-colored Subaru, a red Honda CR-V, and a white Prius. (Exhibit 1 at 0:00.)
4. The three vehicles were travelling north toward the intersection ahead of a group of protesters on foot and were being directed by individuals in high vis vests. (*Id.* at 0:00–0:18.) The first of the three vehicles entered the intersection and pulled forward, blocking the lanes of east-bound traffic on University Ave. (*Id.* at 0:18–0:30.) At this time, six individuals in high vis vests were already standing in a line across the intersection. (*Id.*) The second and third vehicles entered the intersection and pulled forward to block the oncoming traffic alongside the first vehicle. (*Id.* at 0:27–0:38.) The three vehicles moved in front of the six individuals already in the intersection, placing themselves between the six individuals and the oncoming traffic. (*Id.*) South-bound traffic had a red light at this time. (*Id.* at 17.) East-bound traffic had a green light at this time. (*Id.* at 0:30.)
5. While the three vehicles were stopped in the intersection, a large group of protesters on foot entered the intersection and began walking east on University Ave. (*Id.* at 0:52–1:23.) Once the protesters on foot exited the intersection, the three vehicles moved out of the intersection and pulled onto University Ave behind the group of protesters. (*Id.* at 1:23–1:51.)
6. The three vehicles drove east on University Ave behind the protesters, occupying the bike lane, the right lane, and the center lane. (*Id.* at 1:51–2:03.)
7. Once the intersection was clear, east-bound traffic on University Ave resumed moving. A blue vehicle quickly moved to follow the three vehicles, switching from the right lane to

drive in the center lane behind the white Prius. (*Id.* at 1:49–1:59.) The blue vehicle followed the white Prius closely and, near the end of the footage, appeared close to hitting an individual in a high vis vest, who looked back and extended his arm toward the front of the blue vehicle. (*Id.* at 1:59–2:03.)

8. The three vehicles drove noticeably slower than the speed limit in the area, which was between twenty-five and thirty-five mph. (*Id.* at 1:51–2:03.)
9. The left lane was partially blocked by vehicles parked on the left side of the street. (*Id.*)
10. The group of protesters marching east on University Ave blocked the entire street in front of the three vehicles.
11. The three vehicles could not have driven the speed limit on University Ave without causing injury to the group of protesters on foot in front of them.
12. On October 1, 2024, Sergeant Keller was dispatched to respond to a call regarding a vehicle blocking University Ave behind a group of protestors. Sergeant Keller was instructed to pull over and identify one of the vehicles that was driving behind the protest: a white Prius. Sergeant Keller had seen the white Prius on a live feed of the protest prior to stopping it. Sergeant Keller approached the white Prius, informed the driver of the reason for the stop, and asked whether the driver, later identified as Sarah Martin, had her Driver's License. (Exhibit 4 at 0:44–0:52.) Sergeant Keller asked why Defendant Martin had been impeding traffic, and Defendant Martin explained she had been following the march to protect the protesters and ensure no one was run over. (*Id.* at 1:25–1:39.) Defendant Martin did not directly state that she was affiliated with the march, but Sergeant Keller believed she was affiliated with the march due to the sign on her vehicle. (*Id.* at 0:47.) Sergeant Keller then issued a ticket for impeding traffic.

13. On October 1, 2024, Sergeant Jonas Hanggi was informed that protesters were present on Northrop Mall and moving across the University of Minnesota Campus. Sergeant Hanggi received information from dispatch regarding vehicles that were impeding traffic and associated with the protest and began searching for the vehicles. The vehicles were being tracked on camera, and dispatch provided a general description of the vehicles. Sergeant Hanggi stopped a red Honda CR-V based on the description from dispatch. Sergeant Hanggi approached the red Honda CR-V and requested that the driver, later identified as Emily Newberg, produce their Driver's License and proof of insurance. (Exhibit 3 at 0:44–0:49.) When Defendant Newberg asked the reason for the stop, Sergeant Hanggi explained he had stopped her because she was involved in blocking traffic on University Ave. (*Id.* at 0:58–1:23.) Sergeant Hanggi then issued a ticket for impeding traffic.
14. On October 1, 2024, Officer Caleb Arendt was dispatched to a protest on the University of Minnesota campus. Dispatch provided Officer Arendt with a description of a vehicle and driver involved with the protest, which Officer Arendt then located. Officer Arendt approached the Subaru and requested that the driver, later identified as Jessica Sundin, produce her Driver's License and proof of insurance. (Exhibit 2 at 1:02–1:10.) Officer Arendt then stated that the reason for the stop was because Defendant Sundin was impeding traffic on University Ave. (*Id.* at 2:24–2:27.) Officer Arendt then issued a ticket for impeding traffic.
15. Defense witness Ted Mika has seven years of experience marshalling at protests, managing protest marshals, and planning and leading marches. Marshals are individuals at protests whose function is to keep the protest safe and successful. Marshals at protests typically wear high vis vests.

16. A car marshal's purpose is to block vehicular attacks. This protocol was developed in 2020 in the twin cities in response to around a dozen incidents of cars driving through protests and attempting to hit protestors. Specifically, Mr. Mika referred to the death of a protester in Seattle in 2020 and the death of a protester in Uptown in 2021 from vehicles driving into protests. Mr. Mika also referenced the truck that drove into a protest on I-35W in 2020.
17. In Mr. Mika's experience, roughly 90% of the protests run by the major organizations he is familiar with in the twin cities have car marshals present. In Mr. Mika's experience, in the twin cities, car marshals are typically allowed to perform their function by law enforcement. Mr. Mika is not familiar with any other incidents of car marshals being charged by law enforcement with impeding traffic.
18. Mr. Mika was not personally present at the October 1, 2024, protest. Mr. Mika has not seen video footage of the protest.

### **CONCLUSIONS OF LAW**

1. As a preliminary matter, the Court finds that there was probable cause for citations to be issued in each case.
2. Minnesota Statute § 169.15, subd. 1, provides that: "No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law or except when the vehicle is temporarily unable to maintain a greater speed due to a combination of the weight of the vehicle and the grade of the highway."
3. Minnesota Statute § 169.06, subd. 4(a), provides that: "The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a police officer

or by a flagger authorized under this subdivision, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.”

4. A necessity defense defeats a criminal charge “if the harm that would have resulted from compliance with the law would have significantly exceeded the harm actually resulting from the defendant’s breach of the law.” *State v. Rein*, 477 N.W.2d 716, 717 (Minn. Ct. App. 1991) (citing *United States v. Seward*, 687 F.2d 1270, 1275 (10th Cir. 1982)). “[T]he defense exists only if (1) there is no legal alternative to breaking the law, (2) the harm to be prevented is imminent, and (3) there is a direct, causal connection between breaking the law and preventing the harm.” *Id.* (citing *Seward*, 687 F.2d at 1270).
5. The Court finds Defendants Sundin, Newberg, and Martin not guilty of Traffic - Impeding Traffic - Drive at slow speed. The State has shown that Defendants Sundin, Newberg, and Martin drove at a slow speed and impeded the movement of traffic on University Ave. However, the evidence also shows that the reduced speed of Defendant’s vehicles was “necessary for safe operation.” Minn. Stat. § 169.15, subd. 1. While Defendants Sundin, Newberg, and Martin were entering and moving within the intersection, there were at least six people standing in a line in the middle of the intersection. After exiting the intersection, while driving on University Ave, Defendants Sundin, Newberg, and Martin were located behind a large group of people walking on foot. Under these specific circumstances, driving significantly slower than the speed limit was necessary for safe operation of their vehicles, as driving at greater speeds would likely have resulted in injury or death.
6. The Court finds Defendants not guilty of Traffic Regulations - Failure to obey traffic control device. Based upon a review of Exhibit 1 and the testimony of Operator Dering, the Court finds that east-bound traffic had a green light and south-bound traffic had a red

light when the Defendants moved into the intersection. Given these findings, it is reasonable to conclude that north-bound traffic also had a red light when Defendants Sundin, Newberg, and Martin entered the intersection. Nevertheless, the Court finds that the necessity defense applies and, in the specific circumstances of the present case, the Defendants' actions were necessary to prevent imminent harm.

7. It is clear to the Court that the majority of the protesters entered the intersection after Defendants Sundin, Newberg, and Martin. However, Exhibit 1 shows there were at least six individuals who had entered the intersection on foot before the Defendants formed a barrier with their vehicles. By placing their vehicles between these six individuals and oncoming traffic, and by maintaining the barrier between the protesters and oncoming traffic after the remaining protesters had entered the road, the Defendants prevented other vehicles on the road from accidentally or deliberately causing the protesters harm.
8. The State argued that the defense of necessity is not available to protesters where there were legal alternatives and, as such, that the defense of necessity is not available to Defendants Sundin, Newberg, and Martin in the present case. *Rein*, 477 N.W.2d at 718. However, once the six individuals were standing in the intersection, the Court finds that there was no legal alternative that would have allowed the Defendants to create a barrier between the protesters in the intersection and the oncoming traffic. While the six protesters could have waited to enter the intersection until the Defendants had a green light, there is nothing in the record before this Court that indicates the Defendants could have prevented the protesters from entering the intersection.



9. Exhibit 1 shows multiple cars traveling east on University Ave. Once the six protesters entered the intersection on foot and formed a line across the center of the intersection, the harm posed to the protesters on foot by oncoming traffic was imminent.
10. There was a direct, causal connection between the Defendants breaking the law and preventing the harm. Because the protesters on foot entered the intersection when east-bound traffic had a green light, there was no way for Defendants Sundin, Newberg, and Martin to form a barrier between the protesters and oncoming traffic other than entering the intersection on a red light.
11. Exhibit 1 shows that once the intersection was clear, a blue vehicle began driving behind the Defendants' vehicles on University Ave. The blue vehicle followed the white Prius closely and appears to have come close to hitting at least one pedestrian. This is a clear example of the risk to the protesters and others on the road that Defendants Sundin, Newberg, and Martin sought to mitigate through their actions.
12. Defendants Sundin, Newberg, and Martin used their vehicles to create a barrier between oncoming traffic and a group of protesters who were on foot. Specifically, it appears to the Court that the Defendants acted to protect the six individuals who entered the intersection first in addition to the large group of protesters who entered the intersection and marched along University Ave once a barrier was formed. The Defendants were stopped in the intersection for approximately one minute. No property was damaged, and there was no physical harm caused by the Defendants' actions. The nature of the protest is irrelevant to the Court's analysis. Based solely on the evidence before the Court and given the limited circumstances of this case, where three drivers acted to protect pedestrians on the road, the Court finds Defendants Sundin, Newberg, and Martin not guilty by reason of necessity.

**ORDER**

1. The Court finds Defendants Sundin, Newberg, and Martin not guilty of Traffic –  
Impeding Traffic – Drive at slow speed in violation of Minn. Stat. Sec. 169.15, subd. 1.
2. The Court finds Defendants Sundin, Newberg, and Martin not guilty of Traffic  
Regulations – Failure to obey traffic control device in violation of Minn. Stat. 169.06,  
subd. 4(a).

IT IS SO ORDERED

BY THE COURT:

Date: May 8, 2025

---

Bev Benson  
Judge of District Court