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STOUGHTON, J., dissenting. In my view, the evidence and the inferences reasonably drawn therefrom do not support a conclusion that the defendants, Robert Muckle, Stanley Scott and Maryann Sprague, actually obstructed pedestrian traffic during their demonstration at the Planned Parenthood of Connecticut (Planned Parenthood) building in New Haven. Therefore, I respectfully dissent.

Officer Brian Donnelly of the New Haven police department testified that he saw three pedestrians approaching toward the area where the protesters were with their props and that these three pedestrians stepped off the sidewalk.<sup>1</sup> He further testified that he observed two of the three stop as they approached the area and step onto the grass adjoining the sidewalk. These two were never identified, and Donnelly did not know where they went. He testified that he thought that they stepped onto the grass because they could not proceed through the protestors along the sidewalk. That was never established, however, and Donnelly also testified that they may have simply stepped off the sidewalk and walked into the Planned Parenthood building. The record reveals that no other evidence regarding these two pedestrians was provided to the court. No evidence was presented indicating, for example, whether the two pedestrians were traveling together. More importantly, the record does not indicate the positioning of the defendants at the time when the two pedestrians stepped off the sidewalk. Thus, it is not clear which, if any, of the defendants were even blocking the sidewalk at the time that these pedestrians departed from it. It also is not clear whether any of the defendants noticed the two pedestrians.

The third and final pedestrian referenced by Donnelly, and relied on by the state, was a woman who was walking a dog. Donnelly testified that she continued along the sidewalk and stepped onto the grass with her dog when she reached the spot where Scott and Sprague were standing with some policemen. This episode is shown in a video from a stationary camera system employed by Planned Parenthood that depicted a portion of the events during the demonstration, which we have reviewed. The video is consistent with Donnelly's testimony of the event. The portion of the sidewalk where the woman with the dog stepped onto the grass was occupied by Donnelly and two other police officers in addition to two of the defendants. To the extent that the sidewalk was blocked, the evidence is insufficient to establish that it was the defendants alone, rather than the defendants and the police officers, who blocked the sidewalk. Additionally, even though this pedestrian stepped onto the grass with the dog, she was hardly

inconvenienced even slightly, let alone obstructed in her progress. No one attempted to stop her, and she proceeded past the defendants without incident. The state had to show that while intending to impede a lawful activity, the defendants obstructed pedestrian traffic. See *State v. Scott*, 83 Conn. App. 724, 730, 851 A.2d 353 (2004). One is not obstructed in this sense simply because one is obliged to step around another person who is also on the sidewalk. See *State v. Anonymous* (1976-9), 33 Conn. Sup. 93, 98, 363 A.2d 772 (1976).

Whether the other two pedestrians might have been obstructed cannot be determined from the evidence. Where they were headed was never revealed, Donnelly testified that he did not know where they were headed, and there is no evidence that they actually attempted to walk along the sidewalk.

Deborah Camerota, referred to in the majority opinion, was considered by the state to have been among the protesters.

I would reverse the judgment.

<sup>1</sup> The state conceded at trial that no pedestrians were prevented from accessing the Planned Parenthood building.

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