

# Fail to Stop within Assured Clear Distance

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vhelder

<vhelder@miottawa.org>

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Sep 2, 2020, 1:31:18 PM



to madcm@googlegroups.com

Good morning,

I have a hearing coming up for a citation issued for Fail to Stop within Assured Clear Distance. The respondent and his father filed a 13 page brief alluding to the fact that the accident was unavoidable (Sudden Emergency Doctrine) and that the citation is not valid because it does not list the speed limit or the speed the respondent was travelling.

The respondent was the 7<sup>th</sup> car in a pileup. He claims a vehicle stopped quickly and caused the 6 cars in front of him to crash in a pileup. As a result of the abrupt stop due to the 6 car pileup he was unable to stop. He claims this is no different than a deer crossing or a vehicle pulling out in front of him. I believe it is different since a person would not be issued a citation for Fail to Stop within Assured Clear Distance in his examples.

This leads to my first question: In your opinion is a chain reaction crash where the vehicles stop very abruptly a situation that could be considered a sudden emergency ?

Secondly, the respondent claims that the citation has a material defect rendering the citation void. The deputy did not put on the citation the speed limit or the speed travelled. MCL 257.633(1) states: (1) In every charge of a violation of a speed limit in this chapter, the complaint or citation and the summons or notice to appear shall specify the speed at which the respondent is alleged to have driven and the speed limit applicable at the location. Attorney General Opinion 5431 provides that a violation under 257.627

must specify the speed alleged to have been driven and the speed limit at the location where the offense took place.

I recall reading something, I believe it was in the Magistrate Bench Book, stating that we should make sure the citation does not have a material defect. One of the examples was a citation issued under the Speed Section of the Vehicle Code that did not list the speed limit or the speed travelled. A violation of MCL 257.627 is under the Speed Section of the Vehicle Code.

This leads to my second question: Is failing to list the speed limit and the speed travelled a material defect which would make the citation void?

Thanks.



**james brennan**

<jamesbrennanlaw64@gmail.com>

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Sep 2, 2020, 1:36:31 PM



to Jonathan Morse

Hi Vern. Where was the damage to his vehicle and the next immediate vehicle. If it's his front and the other 's rear, there's a presumption that he didn't have control of his vehicle. Good luck, enjoy. Worse case dismiss and who's going to complain? Brennan



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Wiewiora, John

<WiewioraJo@co.muskegon.mi.us>

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Sep 2, 2020, 1:38:44 PM



to madcm@googlegroups.com

No to needing to list speed; that is only when it is alleged defendant exceeded a speed limit where this is a violation of leaving an assured clear distance and the speed limit is not at issue.

If the vehicle defendant was following was brought to an artificial stop—stopping faster than normal braking due to running into an object—then, in my opinion, that does cause a sudden emergency for which defendant could not be held responsible. However, that is not a material defect in the ticket, but rather is an affirmative defense which would have to be resolved based upon evidence at a hearing.

**From:** [ma...@googlegroups.com](mailto:ma...@googlegroups.com) [mailto:[ma...@googlegroups.com](mailto:ma...@googlegroups.com)] **On Behalf Of** Vern Helder

**Sent:** Wednesday, September 02, 2020 1:31 PM

**To:** [ma...@googlegroups.com](mailto:ma...@googlegroups.com)

**Subject:** Fail to Stop within Assured Clear Distance

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matt.friedrich

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Sep 2, 2020, 2:45:11 PM

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to madcm@googlegroups.com

You'll have to hear the specific testimony, but, as a general rule, I would have trouble finding that an accident or a pile up would be a sudden emergency. There is a reason you are supposed to travel at a safe distance, with the primary reason being to avoid an accident with vehicles in front of you. It seems to me that, in most traditional accident cases, if the respondent was far enough behind the car in front of him, he could/should have had time to stop.

For example, I've seen cases where one car stops at a yellow and several cars behind that car end up in a pile up. I think every car behind the stopping vehicle is responsible for failing to stop.

My idea of a sudden emergency would be something unforeseen happening to create a situation where the ticketed driver could not have stopped in time. In most situations, I struggle with that being the case if the cars in front of a driver are involved in an accident and he simply failed to stop in time.

Now, maybe there were circumstances here to alter that scenario. Like a tire blowing out on a vehicle and debris quickly causing a chain reaction of accidents. That, to me, would be the type of case where the sudden emergency defense would be in play.

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**Milroy, Michael**

<michael.milroy@kentcountymi.gov>

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Sep 2, 2020, 3:16:09 PM

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to madcm@googlegroups.com

Good Afternoon,

As others have advised, the citation without speed limit or speed listed is not a material defect causing dismissal of the charge. A violation of the basic speed law is not a violation of a speed limit. Often the distinction is lost on the defendants.

The sudden emergency doctrine will not be a defense to a factual background of a multi-car pileup. For an emergency to exist with the meaning of the sudden emergency doctrine, the accident must present a situation that is unusual or unsuspected. Your factual background does not offer anything that varies from an everyday traffic situation. Certainly not something that is totally unexpected. Traffic backs up all the time. Your defendant was either traveling too fast or following too close to stop within the assured clear distance.

Good luck with the hearing. In Court or Zoom? Our doors remain closed.

Michael J. Milroy

63<sup>rd</sup> District Court

**From:** [ma...@googlegroups.com](mailto:ma...@googlegroups.com) [mailto:[ma...@googlegroups.com](mailto:ma...@googlegroups.com)] **On Behalf Of** Vern Helder

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jbpahl0824  
<jbpahl0824@gmail.com>  
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Sep 3, 2020, 9:08:36 PM



to MADCM

A sudden stop in traffic ahead is something each driver is required to anticipate, as it does happen. The driver is to ensure he is allowing enough space between him and the car ahead in case the vehicle ahead does come to a sudden stop. As to the material defect, speed is not alleged here, but fail to safely react to traffic situations ahead. If the allegation was speed to fast for conditions, that is a different story.

Jim  
55th

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