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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO

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14 THE PEOPLE OF THE STATE OF CALIFORNIA,
15 Plaintiff,

16
17 v.

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19 JUVENCIO MERCADO ADAME,
20 Defendant.

Case No.: CD251200
D.A. No.: ADN373

**MOTION TO DISMISS PURUANT
TO PENAL CODE SECTION 1385**

Date: December 2, 2013
Time: 1:30
Dept: 11

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23 Comes now the plaintiff, the People of the State of California, by and through its
24 attorneys, BONNIE M. DUMANIS, District Attorney, AMY M. MAUND, Deputy District
25 Attorney, and CHERIE B. SOMERVILLE, Deputy District Attorney, and respectfully submits
26 the Motion to Dismiss Pursuant to Penal Code section 1385.

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1 **STATEMENT OF THE CASE**

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3 In late September 2013, the San Diego Police Department submitted a criminal investigation
4 report for vandalism in an amount over \$400.00 against Mr. Adame to the City Attorney’s
5 Office for prosecution. The police reports included estimates of damage to the trees in an
6 amount over \$3,000.00. The police reports included photographic evidence showing a fenced
7 City- owned area and showing that the trees were cut in the specific area that presumably would
8 interfere with Mr. Adame’s ocean view. The City Attorney’s Office referred the case to the
9 District Attorney’s office due to the amount of damage documented in the police reports to be
10 well over the \$400.00 felony vandalism amount.
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12 On October 3, 2013, a criminal complaint was filed charging the defendant with one felony
13 count of vandalism. The defendant entered a not guilty plea on October 24, 2013. Based on
14 new information that the trees may not have been permanently damaged by the cutting, the
15 District Attorney immediately pursued an additional investigation. The District Attorney’s
16 Office arranged for an expert arborist with the City of San Diego Regional Parks Division to
17 inspect the trees that had been cut. This new inspection took place on Monday November 25,
18 2013. The park arborist opined that the trees cut by Mr. Adame will re-grow catching up with
19 other trees in a few years. While the law of vandalism includes damage that can be repaired, the
20 value of the damage involved due to the trees being cut cannot be precisely determined since the
21 cut trees will recover, albeit it in a few years. The People also contacted Mr. Adame’s defense
22 attorney to provide any information that he wishes us to consider. The defense attorney
23 provided information today that sheds more light on Mr. Adame’s motivation in cutting the trees
24 which is relevant to the elements of the charged offense. The benefit of the doubt in the
25 assessment of the amount of damage, leads to the People’s motion to dismiss in the interests of
26 justice.

27 Lastly, the People have contacted the City of San Diego to let them know of the
28 Dismissal.

