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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LASSEN**

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**The People of the State of
California,**

Plaintiff,

vs.

Dwight Alan Bennett,

Defendant

Case No.: CR029267

**Tentative Decision
October 15, 2014
Sentencing Hearing**

**This action last was before the court pending trial on an
Information filed by the District Attorney setting out sixty-five separate
felony counts for violation of Penal Code section 597(b), animal**

1 **cruelty, and one misdemeanor count for violation of Health and Safety**
2 **Code section 11377(a), possession of a controlled substance. It now**
3 **comes before the court for sentencing.**

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5 **On August 22, 2014 the parties appeared for the Trial Readiness**
6 **Hearing and jointly presented the court with an agreed disposition**
7 **whereby the District Attorney would dismiss all pending felony**
8 **charges in return for the Defendant entering a plea of *nolo contendere***
9 **to four separate misdemeanor counts of Penal Code section 597.1(a),**
10 **animal cruelty, to be added to the Information by amendment, with a**
11 **specified sentence granting the Defendant formal probation for three**
12 **years with conditions including a term of 120 days in the county jail.**

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17 **The court accepted the disposition on condition that the case be**
18 **referred to the Probation Officer to conduct an investigation of the**
19 **facts of the case and background of the Defendant for inclusion in a**
20 **formal Probation Report thereon for the Court's use in assessing the**
21 **disposition and agreed sentence. The Probation Report was filed**
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1 herein October 7, 2014, and the Court now has read and considered
2 the same.¹
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4 **It is the lawful province of a District Attorney to evaluate and**
5 **select the crime to charge and bring to trial against a defendant, and**
6 **courts accept those executive determinations. Likewise, it is the**
7 **province of the Superior Court to assess the Defendant and**
8 **circumstances of his crimes after conviction and select the**
9 **appropriate sentence to impose upon the same, thereby making a**
10 **sentence agreed between the District Attorney and the Defendant**
11 **subject to the Court's acceptance after due consideration. In the**
12 **present case, the Court does *not* find the agreed sentence appropriate**
13 **or in furtherance of justice, and rejects the same.**
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19 **This case arises on sixty-five separate felony charges, each**
20 **brought upon alleged mistreatment of a separate and individual**
21 **animal. The rather lengthy period of reports to law enforcement and**
22 **investigations generally were centered on horses at the Defendant's**
23 **business of operating a horse stable facility which were alleged to be**
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27 ¹ Although inconsequential given the findings and orders herein, the
28 Court notes there is no supporting basis or explanation for the proposed
restitution order in Item 6 of the recommendation of Probation.

1 extremely skinny, deprived of drinking water, and generally uncared
2 for, as in having long, un-trimmed hooves. One of the reports came
3 from a Highway Patrol Officer investigating horses wandering onto a
4 State Highway adjacent to the property of the Defendant, apparently
5 looking for food. Approximately twenty-nine deceased horse carcasses
6 later were found upon or nearby the stable property of Defendant by
7 law enforcement officers. Subsequently, a veterinarian examined
8 approximately fifty living horses in the Defendant's possession and
9 found them malnourished with symptomatic *indicia* of starvation.²

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15 The defense allots the evidence against Defendant to three
16 general categories of excuse: unspecified inability to properly care for
17 the animals, lack of funds, and unknown third parties' ongoing
18 activities sabotaging his boarding stable business. Two aspects of the
19 case are worthy of mention in attempting factual evaluation of these
20 positions: it is difficult to dismiss a conclusion of willful (one could
21 reasonable conclude "malicious") lack of care and sustenance as to
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27 ² This is a broad summary and not intended to limit the facts related in
28 the report of the Probation Officer, all of which have been given the
consideration due them, including disregarding those which might be
inappropriate for the Court to rely upon under applicable law.

1 **lack of water, and, in light of Defendant's being a trained farrier,**
2 **failure to properly care for the horses' hooves.³**
3

4 **The Court notes that the Probation Officer vehemently disagrees**
5 **with both components of the disposition agreement between the**
6 **District Attorney and the Defendant. However, the Court relies upon its**
7 **own evaluation in reaching the conclusions set forth in this Order.**
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10 **After evaluation of the underlying circumstances and the extent**
11 **of the grossly inhumane treatment of the large number of horses found**
12 **living in possession of the Defendant, and reasonable inferences to be**
13 **drawn from the large number of deceased horses upon and near his**
14 **property, the court finds the agreement between the parties for 120**
15 **days of jail incarceration for the Defendant is not within a sentence**
16 **range just and appropriate for his conduct. The Court takes note that**
17 **each of the four misdemeanor counts to which Defendant plead relates**
18 **to one, separate, horse, and carries a maximum term of one year in jail**
19 **(constituting an aggregate of four years upon application of**
20 **consecutive sentencing provisions).**
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³ The Court intentionally is non-specific in this summary, including not
28 quoting any statements of the Defendant due to the matter returning to a pre-trial status following this Order.

1 **In consideration of the foregoing, the significant benefit to the**
2
3 **Defendant of dismissal of sixty-five felony charges (and one**
4 **misdemeanor) in exchange for his plea to these four misdemeanors,**
5 **and the defendant's apparent failure to accept personal responsibility**
6 **and appreciate the gross inhumanity of his actions, the Court finds it**
7 **appropriate and in the interest of justice that the Defendant, even with**
8 **the benefit of pleading prior to trial, should serve, at a minimum, a**
9 **consecutive-term sentence of eighteen months in jail as a condition of**
10 **formal probation on the four misdemeanor convictions.**

14 **As a result of the Court's rejection of the sentence component of**
15 **the disposition agreement submitted by the parties on August 22,**
16 **2014, a substantive element of the parties' expectation for their plea-**
17 **bargain agreement has failed, and, therefore, the parties must be**
18 **returned to the pre-trial status on the pleadings as they existed prior**
19 **to August 22, 2014 disposition agreement.**

23 **UPON THE FOREGOING, IT IS HEREBY ORDERED THAT:**

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25 **(1) The Court disapproves and rejects the disposition agreement**
26 **entered between the parties on August 22, 2014;**
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- 1 **(2) The Court's acceptance of Defendant's pleas of *nolo contendere***
2 **to four misdemeanor charges of violation of Penal Code section**
3 **597.1(a) herein on August 22, 2014 is vacated;**
- 4 **(3) The Defendant's waiver of rights and entry of four pleas of *nolo***
5 ***contendere* to the misdemeanor charges of violation of Penal Code**
6 **section 597.1(a) herein on August 22, 2014 is stricken;**
- 7 **(4) The Court's granting of the motion of the District Attorney to**
8 **dismiss the sixty-six charges set out in the amended Information**
9 **on August 22, 2014 is vacated;**
- 10 **(5) The motion of the District Attorney to dismiss the sixty-six**
11 **charges set out in the amended Information on August 22, 2014**
12 **is stricken;**
- 13 **(6) The Court's granting of the motion of the District Attorney to**
14 **amend the amended Information to add four misdemeanor counts**
15 **of violation of Penal Code section 597.1(a) herein on August 22,**
16 **2014 is vacated;**
- 17 **(7) The motion of the District Attorney to amend the amended**
18 **Information to add four misdemeanor counts of violation of Penal**
19 **Code section 597.1(a) herein on August 22, 2014 is stricken;**
- 20 **(8) The record shall reflect that the Defendant's previously entered**
21 **pleas of "not guilty" to the charges in the amended Information**
22 **are entered and operative, and the status of this action is**
23 **"pending trial".**
- 24 **(9) The Defendant's executed plea form submitted August 22, 2014,**
25 **and the Probation Officer's Report filed October 7, 2014 are**
26 **ordered sealed by the Clerk of the Court, to be opened only upon**
27 **further order of the Court.**
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LASSEN**

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**The People of the State of
California,**

Plaintiff,

vs.

**Christopher Allen Acosta,
Defendant**

Case No.: CR032029

**Tentative Decision
October 15, 2014
Sentencing Hearing**

**The parties have jointly presented the court with an agreed
disposition whereby the District Attorney would dismiss Count Two,
possession of stolen property, in return for the Defendant entering a**

1 **plea of guilty to Count One, a violation of Penal Code section 459,**
2 **burglary in the second degree (commercial), with a specified sentence**
3 **granting the Defendant formal probation for three years with**
4 **conditions including a term of 180 days in the county jail.**

7 **The court accepted the disposition on condition that the case be**
8 **referred to the Probation Officer to conduct an investigation of the**
9 **facts of the case and background of the Defendant for inclusion in a**
10 **formal Probation Report thereon for the Court's use in assessing the**
11 **disposition and agreed sentence. The Probation Report was filed**
12 **herein October 7, 2014, and the Court now has read and considered**
13 **the same.**

17 **The court approves the disposition agreement, and will grant**
18 **probation on terms as set forth in the probation officer's**
19 **recommendation filed October 7, 2014, the same being in accord with**
20 **the agreement of the District Attorney and the Defendant.**

23 **END OF TENTATIVE DECISION**