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FILED
ALAMEDA COUNTY

JUL 14 2009

CLERK OF THE SUPERIOR COURT
By *Jennifer P. Cabrer*

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ALAMEDA**

10
11 **THE PEOPLE OF THE STATE OF**
12 **CALIFORNIA,**

13 Plaintiff,

14 v.

15 **JOHANNES MEHSERLE,**

16 Defendant.

No. 161210

**COMBINED NOTICE OF MOTION AND MOTION
PURSUANT TO PENAL CODE §995 AND NON-
STATUTORY MOTION TO DISMISS FOLLOWING
PRELIMINARY HEARING**

17 **TO: TOM ORLOFF, DISTRICT ATTORNEY, AND DAVID STEIN, DEPUTY**
18 **DISTRICT ATTORNEY:**

19 PLEASE TAKE NOTICE that on July 24, 2009, at 9 am or as soon thereafter as counsel
20 can be heard in Department 10 of the above-entitled Court, Defendant Johannes Mehserle will
21 move the Court for its order dismissing the single count contained in the information and
22 accompanying special allegations pursuant to Penal Code § 995(a)(2)(B), as well as pursuant to
23 the Court's non-statutory authority to dismiss, because the defendant has been committed to trial
24 without reasonable or probable cause and because rulings by the magistrate at the preliminary
25 hearing resulted in a prejudicial denial of the defendant's substantial rights.

26 This combined non-statutory motion to dismiss and motion pursuant to § 995 is based on
27 this notice of motion and motion, the accompanying memorandum of points and authorities,
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declaration of counsel, the entire court file in this case, and whatever additional evidence and authorities are presented at a hearing on the matter.

Dated: July 13, 2009

Respectfully Submitted,
RAINS LUCIA STERN, PC

Michael L. Rains
By: Michael L. Rains
Attorneys for Johannes Mehserle