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PRESS RELEASE

For immediate release

Date: 4 Dec. 2007

Re: *People v. Smith*
1226727

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Modesto, California – Stanislaus County District Birgit Fladager announced today that Timothy Floyd Smith, age 36, of Modesto, was sentenced to 11 years in prison after an October 11, 2007 jury trial. Deputy District Attorney Michael D. Houston was the assigned prosecutor.

The case arose out of events that occurred on April 11, 2007 at the K-Mart in the city of Ceres. The defendant and his 17-year-old nephew took items from the store without paying for them. When the juvenile left the store, loss prevention officer Heriberto Lara tried to apprehend him and recover the stolen property. While Lara was trying to apprehend the juvenile, Smith drove his pick-up truck directly at Lara to help his nephew escape. Lara was able to jump out of the way and avoid being hit.

The jury convicted Smith of misdemeanor petty theft and felony assault with a deadly weapon. A prior conviction for residential burglary was found true by Judge John G. Whiteside.

At today's sentencing hearing, Judge Whiteside heard a victim impact statement from Lara. In that statement, Lara said he thought he was going to die and that he was thinking about his children as Smith was driving the pick-up straight at him.

Houston argued for the maximum time allowed under the law – 13 years – based on Smith's prior conviction and the facts of the case. Smith will have to serve 85 percent of his sentence and is now subject to a 25 to Life sentence for his next felony conviction under the Three Strikes law.