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Dear Assistant District Attorney Amanda Greene,

I represent the defendant in the above-referenced matter pending in New Rochelle City Court. I respectfully request that the People consider dismissing the violation prior to the scheduled court appearance. I would be grateful for the opportunity to discuss this matter before the scheduled appearance date, as I believe it can be resolved without the need for court intervention.

The circumstances of this case do not reflect the type of conduct that New York Penal Law § 140.05 was intended to address. My client is a 2025 Harvard University graduate with no criminal history or prior contact with the criminal justice system. He is an avid runner and former Junior Olympian track athlete who was in the area training.

While jogging, he observed what appeared to be a gravel incline that could be used for hill training. Although there was a gate at the entrance of the gravel incline, the gates were standing open. The only “No Trespassing” sign was affixed to the left gate and, because the gates were open, it was not visible to my client as he entered the property. He reasonably believed the area was accessible and had no intention of entering private property unlawfully.

While training on the hill, my client was approached by a police officer. The defendant called me immediately and I arrived at the location within minutes. During the encounter, and in my presence, the officer acknowledged that the gate should have been

closed and, using a key from his own belt, proceeded to close and lock the gate. The officer further advised that he was intentionally issuing only a violation—not a criminal trespass charge—in order to deter others from entering the property. The officer's acknowledgment that the gate should have been secured reinforces my client's reasonable belief that the area appeared open and accessible to the public.

My client immediately explained that he had no intent to trespass, that he did not know the property was private, and that the gates had been open when he entered. He also requested that a supervisor respond to the scene. No supervisor was summoned, and an appearance ticket charging a violation under Penal Law § 140.05 was issued. My client was not arrested, was not fingerprinted, and has an exemplary record.

The facts demonstrate that this incident resulted from an honest mistake rather than any criminal intent. The open gates, the placement of the warning sign, and the officer's own acknowledgment that the gate should have been closed all support that conclusion.

My client has worked diligently to build an exemplary academic and personal record. The continued prosecution of this violation—arising from an honest mistake—serves neither the interests of justice nor the public interest. Dismissal would avoid imposing unnecessary consequences on a young man who has demonstrated exceptional character and achievement and who poses no risk to the community.

As you know, the criminal justice system is best served by distinguishing between intentional criminal conduct and an isolated mistake made without any unlawful purpose. I respectfully submit that this case falls squarely within the latter category.

The officer's stated purpose in issuing the appearance ticket was deterrence to others rather than a belief that my client acted with criminal intent. While deterrence is an appropriate law enforcement objective, the unique facts of this case demonstrate that further prosecution is unnecessary to achieve that objective.

Given my client's background, the absence of any criminal history, the lack of criminal intent, and the minor nature of the alleged offense, I respectfully submit that dismissal is appropriate in the interests of justice. Resolving this matter now would conserve judicial and prosecutorial resources while reaching a fair and equitable result. I respectfully ask the People to exercise their prosecutorial discretion and consent to dismissal, consistent with the interests of justice recognized in Article 170 of the New York Criminal Procedure Law.

Accordingly, I respectfully request that the People consent to dismissal of the accusatory instrument prior to the scheduled court date, without requiring my client's personal appearance. Should you wish to discuss the matter further or require any additional information, I would welcome the opportunity to speak with you at your convenience.

If you believe it would be helpful, I would be happy to discuss the matter by telephone at your convenience. Thank you again for your consideration, and I look forward to hearing from you.

Respectfully,


Asuncion Hostin, Esq.
Attorney for Defendant

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