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9 LEE MAX BARNETT

10

11   IN THE UNITED STATES DISTRICT COURT

12   FOR THE EASTERN DISTRICT OF CALIFORNIA

13

14 LEE MAX BARNETT,   )   NO. CIV-S-99-2416 JAM CMK
)
15   Petitioner,   )
)   ORDER DISMISSING UNEXHAUSTED
16   v.   )   CLAIMS FROM THIRD AMENDED PETITION
)
17 VINCENT CULLEN, ACTING WARDEN,   )   DEATH PENALTY CASE
        San Quentin State Prison   )
18   )
               Respondent.   )
19   )
)
20 _____)

21

22   Pursuant to the Court's order dated April 29, 2010 (Doc. 295), Petitioner Lee Max Barnett has

23 notified the Court that he elects to dismiss the unexhausted claims from his third amended petition (Doc.

24 183) without prejudice. Accordingly, IT IS HEREBY ORDERED that:

25   The following claims and parts of claims are dismissed from petitioner's third amended petition

26 without prejudice:

27   1)   The portions of Claim 13 relating to Turowski and Hammons (Third Amended Petition

28   [Doc. 183] at 269-70, ¶¶ 997-1002), and ineffective assistance of counsel claims relating to

Order Dismissing Unexhausted Claims From
Third Amended Petition   *Barnett v. Cullen,* CIV S-99-2416 JAM CMK

1	these witnesses (3d Am. Petn. at 170-71, ¶¶ 1003 & 1005);
2	2) The portion of Claim 54 regarding the anonymous letter (3d Am. Petn. at 439, ¶ 1512,
3	including the claim of ineffective assistance of counsel relating to the anonymous letter (3d
4	Am. Petn. at 441, ¶ 1517);
5	3) The portion of Claim 104 based on the newly discovered tape-recorded conversation
6	between Petitioner and Gabryelski (3d Am. Petn. at 669, ¶ 2257 n. 206), including the
7	claim of ineffective assistance of counsel (3d Am. Petn. at 672, ¶ 2265);
8	4) Claim 117; and
9	5) Claim 118.

Dated: June 14, 2010

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Judge