IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

PHUOC VONG,	No. C 09-5851 JW (PR)			
Petitioner,))			
vs.	ORDER OF DISMISSAL			
KEN CLARK, Warden, Respondent.))))			

Petitioner filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the forfeiture of 360 days of time credits, placement in administrative segregation for one year and assessment of twenty-four unfavorable behavior points following a disciplinary hearing held at Salinas Valley State Prison wherein he was found guilty of possession of a prisoner-manufactured weapon. Doc. #1. After the court issued an order to show cause, Respondent filed a motion to dismiss the petition on the ground that Petitioner failed to exhaust state court remedies as to one of his three claims prior to filing suit here. Doc. #11. Respondent's motion was unopposed.

On March 18, 2011, the Court granted Respondent's motion to dismiss, but rather than dismissing the action outright, the Court gave Petitioner thirty (30) days to file a notice of election, choosing either to:

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	(1) dismiss the	unexhausted	claim and	go fo	orward	in this	action	with	only t	he
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- (2) dismiss this action and return to state court to exhaust all claims before filing a new federal petition presenting all of his claims; or
- (3) move to stay these proceedings while he exhausts his unexhausted claims in the California Supreme Court.

More than thirty days have elapsed since the Court filed its order requiring a notice of election. Petitioner, however, has failed to file a timely notice of election. Accordingly, the action is DISMISSED.

IT IS SO ORDERED.

DATED: <u>April 21, 2011</u>

Tryles ware Inted States District Chief Judge

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UNITED STATES DISTRICT COURT 1 2 FOR THE 3 NORTHERN DISTRICT OF CALIFORNIA 4 5 PHUOC VONG, Case Number: CV09-05851 JW 6 Plaintiff, **CERTIFICATE OF SERVICE** 7 v. 8 KEN CLARK et al, 9 Defendant. 10 11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California. 12 That on April 22, 2011, I SERVED a true and correct copy(ies) of the attached, by placing 13 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office 14 delivery receptacle located in the Clerk's office. 15 16 Phuoc Vong T-96585 17 **CSATF** C7-109 18 P.O. Box 5246 Corcoran, CA 93212 19 Dated: April 22, 2011 20 Richard W. Wieking, Clerk /s/ By: Elizabeth Garcia, Deputy Clerk 21 22 23 24 25 26 27