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(1) dismiss the unexhausted claim and go forward in this action with only the exhausted claims; or

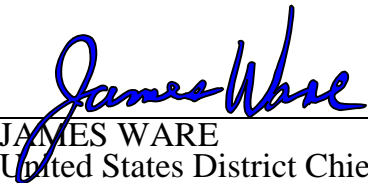
(2) dismiss this action and return to state court to exhaust all claims before filing a new federal petition presenting all of his claims; or

(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: April 21, 2011

  
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JAMES WARE  
United States District Chief Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

PHUOC VONG,  
Plaintiff,

Case Number: CV09-05851 JW

**CERTIFICATE OF SERVICE**

v.

KEN CLARK et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 22, 2011, I SERVED a true and correct copy(ies) of the attached, by placing 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 delivery receptacle located in the Clerk's office.

Phuoc Vong T-96585  
CSATF  
C7-109  
P.O. Box 5246  
Corcoran, CA 93212

Dated: April 22, 2011

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk