

1 \*\*E-Filed 3/28/2011\*\*

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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DIVISION**

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12 EDDIE M. VARGAS, SR.,

13 Petitioner,

14 v.

15 WARDEN MIKE KNOWLES,

16 Respondent.

Case Number 5:03-cv-02930-JF

ORDER (1) DENYING MOTION TO  
SUBSTITUTE ATTORNEY  
WITHOUT PREJUDICE; AND  
(2) REQUESTING SUBMISSION  
FROM PETITIONER'S COUNSEL

[Re: Dkt. Entry 192 ]

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19 On November 18, 2008, this Court granted Petitioner's motion for a stay of the instant  
20 litigation so that he could return to state court to seek adjudication of certain unexhausted federal  
21 habeas claims. The Court directed the Clerk to close the file for administrative reasons, stating  
22 that the file would be reopened when and if Petitioner's claims were exhausted.

23 The Court has not received any subsequent filings or correspondence from Petitioner's  
24 court-appointed attorney, Jerry Fong. Petitioner himself has filed a motion for appointment of  
25 new counsel, asserting that Mr. Fong has abandoned him.

26 Petitioner's motion is DENIED WITHOUT PREJUDICE at this time. However, Mr.  
27 Fong is HEREBY DIRECTED TO FILE a status update within thirty (30) days, informing the  
28 Court as to the following:

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- (1) the date of Mr. Fong's last communication with Petitioner;
- (2) the status of Mr. Fong's efforts to exhaust Petitioner's federal habeas claims; and
- (3) whether and when Mr. Fong expects to file a motion to reopen the instant action.

IT IS SO ORDERED.

DATED: 3/28/2011

  
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JEREMY FOGEL  
United States District Judge