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SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

10	Laura Elshire,	)	Civil No.06cv0278 W (AJB)
11		)	
	Petitioner,	)	
12	v.	)	Order Granting Voluntary
		)	Dismissal of Unexhausted Claim
13	Dawn Davison, Warden,	)	[ Doc. No. 4]
		)	
14	Respondent.	)	

In response to this Court's Order of February 15, 2006, notifying Petitioner of the possible dismissal of the Petition for failure to exhaust state court remedies, Petitioner filed a Pleading Abandoning Unexhausted Claim on March 2, 2006, effectively choosing option three from the Court's February 15, 2006 Order. Respondent has not filed a Reply. The Court hereby GRANTS Petitioner's request to abandon her unexhausted claim 3 and notes that this Court's February 15, 2006 Order warned Petitioner of the consequences of claim abandonment.<sup>1</sup>

IT IS SO ORDERED.

Dated: 8/30/06

[Signature]  
ANTHONY J. BATTAGLIA  
United States Magistrate Judge

cc: Judge Whelan  
All Counsel of Record

<sup>1</sup> By formally abandoning the unexhausted claim, petitioner should be barred from ever raising these claims in any federal court. *See Rose v. Lundy*, 455 U.S. 509, 521 (1982) ("a prisoner who decides to proceed only with his exhausted claims and deliberately sets aside his unexhausted claims risks dismissal of subsequent federal petitions"); Rule 9(b), Rules Governing Proceedings in the United States District Courts under 28 U.S.C. § 2254 cases.