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

JANICE WEEKS-KATONA,)
)
 Petitioner,)
)
 v.)
)
 SCHELIA A. CLARK,)
)
 Respondent.)
 _____)

No. C 07-3053 MMC (PR)
**ORDER DENYING PENDING
MOTIONS; INFORMING
PETITIONER THAT NO FURTHER
DOCUMENTS WILL BE FILED OR
CONSIDERED IN THIS MATTER
UNLESS AND UNTIL THE CASE IS
REMANDED BY THE NINTH
CIRCUIT AND REOPENED**
(Docket Nos. 43 & 72)

On June 12, 2007, petitioner, a federal prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner, who was convicted and sentenced in 1994 in the United States District Court for the Middle District of Florida, argued that her conviction and sentence were unlawful. The case was assigned to the Honorable Martin J. Jenkins who, on July 31, 2007, dismissed the petition, finding petitioner must bring her claims in the sentencing court, i.e., the Middle District of Florida, by way of a motion to vacate, set aside or correct the sentence pursuant to 28 U.S.C. § 2255. (Order, filed Jul. 31, 2007, at 2-3.)

Thereafter, petitioner filed numerous motions challenging the order of dismissal, and also filed a notice of appeal and request for a certificate of appealability. Judge Jenkins denied all of petitioner’s post-judgment motions, and also denied the request for a certificate of appealability. Consequently, on December 10, 2007, the Clerk of the Court transmitted the record on appeal to the Ninth Circuit, where petitioner’s request for a certificate of appealability is currently pending. See Weeks-Katona v. Clark, No. 07-17280 (9th Cir. Dec.

United States District Court
For the Northern District of California

1 15, 2007).

2 After petitioner's appeal was commenced in the Ninth Circuit, she continued to file
3 motions in the district court, either seeking relief from the order of dismissal or other relief
4 aimed at expediting her release from confinement. As of February 15, 2008, Judge Jenkins
5 had denied all such motions. Since that time, petitioner has filed approximately thirty
6 additional documents asserting her right to relief from the order of dismissal and to
7 immediate release.


8 On January 12, 2009, the case was reassigned to the undersigned. Presently pending
9 are two motions filed by petitioner: one seeking, once again, to void Judge Jenkins' order of
10 dismissal, and the other moving the Court to enter default judgment against respondent. The
11 motions are hereby DENIED. As noted, the instant case is pending before the Ninth Circuit
12 on appeal. Consequently, this Court no longer has jurisdiction over petitioner's assertion that
13 the action was wrongly dismissed and that she is entitled to relief herein. See Natural Res.
14 Def. Council, Inc. v. Southwest Marine Inc., 242 F.3d 1163, 1166 (9th Cir. 2001).

15 Additionally, the Court will not entertain any further requests for relief from petitioner
16 as long as her appeal is pending in the Ninth Circuit, and unless or until she is granted relief
17 in the Ninth Circuit and the case is remanded and reopened in the district court. Accordingly,
18 the Clerk is hereby DIRECTED to return to petitioner, in the future, all documents hereafter
19 submitted by her for filing in this matter prior to the time the case is reopened.

20 This order terminates Docket Nos. 43 and 72.

21 IT IS SO ORDERED.

22 DATED: January 29, 2009

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24 MAXINE M. CHESNEY
25 United States District Judge
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