

1 States Court of Appeals for the Ninth Circuit to resolve the issue of whether a district court may
2 properly require exhaustion of administrative remedies in cases where, as here, the alleged
3 ineffective assistance of counsel occurred after the entry of the alien's final removal order and
4 where, as here, the petitioner seeks only re-issuance of the BIA's order or orders.

5 (4) The Ninth Circuit held oral argument in *Rajinder Singh* on January 13, 2009, but has not
6 yet issued an opinion. On August 11, 2009, the Ninth Circuit issued the following order on
7 August 11, 2009:

8 The case is remanded to the Board of Immigration Appeals for the limited purpose
9 of ruling upon whether the Board had jurisdiction to hear Singh's ineffective
10 assistance of counsel claims and what effect, if any, the Attorney General's recent
11 opinion in *In re Compean*, 25 I & N Dec. 1, 3 (A.G. 2009), has on this case. The
12 Board shall advise the court of any action or decision.

13 *Singh v. Napolitano*, 577 F.3d 988 (9th Cir. 2009) (Order).

14 (5) The BIA has asked the parties in the *Rajinder Singh* case to file briefs on the issue that has
15 been remanded to it by the Ninth Circuit and those briefs are due on January 27, 2010.

16 (6) The parties believe it would be prudent to await the BIA's response to the Ninth Circuit's
17 Order and the Ninth Circuit's decision in *Rajinder Singh* before filing any further briefing in the
18 above-entitled matter and, accordingly, ask this Court to hold this case in abeyance for a period of
19 six months.

20 Date: January 19, 2010

Respectfully submitted,

21 JOSEPH P. RUSSONIELLO
22 United States Attorney

23 /s/
EDWARD A. OLSEN
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Attorneys for Respondents

24 Date: January 19, 2010

25 /s/
JAMES TODD BENNETT
Attorney for Petitioner

[PROPOSED] ORDER

Pursuant to stipulation, IT IS SO ORDERED that:

- (1) This case will be held in abeyance of period of six months.
- (2) If and when the United States Court of Appeals for the Ninth Circuit issues a decision in *Rajinder Singh v. Napolitano*, Appeal No. 07-16988, the parties shall promptly notify the Court;
- (3) The parties shall submit a status report on June 18, 2010.

Dated: _____, 2010



SUSAN ILLSTON
United States District Judge