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The parties must file a joint status report by December 17, 2010.

7 Attorneys for Respondents

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 AMALIA HERNANDEZ PERALES,)

12 Petitioner,)

13 v.)

14 JANET NAPOLITANO, Secretary,)
Department of Homeland Security;)
15 TIMOTHY AIKEN, Field Office Director,)
Immigration and Customs Enforcement;)
16 and ERIC HOLDER, JR., Attorney General)
of the United States,)

17 Respondents.)
18 _____)

No. C 09-6028 SI

JOINT STATUS REPORT

19 Petitioner, by and through her attorney of record, and Respondents, by and through their
20 attorneys of record, hereby submit this joint status report.

21 (1) The petitioner filed a immigration habeas petition on December 24, 2009, alleging that she
22 received ineffective assistance of counsel from two of her former attorneys following the issuance
23 of two orders of the Board of Immigration Appeals (BIA).

24 (2) An issue in this case is whether or not this Court can and should require the petitioner to
25 exhaust her administrative remedies, if any, by presenting her ineffective assistance of counsel
26 claims to the BIA via the filing an administrative motion to reopen.

27 (3) In *Rajinder Singh v. Napolitano*, Appeal No. 07-16988, the parties expect the United
28 States Court of Appeals for the Ninth Circuit to resolve the issue of whether a district court may

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1 properly require exhaustion of administrative remedies, if any, in cases where, as here, the alleged
2 ineffective assistance of counsel occurred after the entry of the alien's final removal order and
3 where, as here, the petitioner seeks only re-issuance of the BIA's order or orders under *Amarjeet*
4 *Singh v. Gonzales*, 499 F.3d 969 (9th Cir. 2007).

5 (4) The Ninth Circuit held oral argument in *Rajinder Singh* on January 13, 2009, but has not
6 yet issued an opinion.

7 (5) On August 11, 2009, the Ninth Circuit issued the following order:

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

14 (6) When the case was remanded to the BIA, the BIA asked the parties to file briefs on the
15 issues that had been remanded to it by the Ninth Circuit and the parties submitted briefs as
16 directed by the BIA.

17 (7) On April 30, 2010, the BIA issued a decision in *Matter of Rajinder Singh*, Case No.
18 A071789054, which responded to the questions that were posed to it by the Ninth Circuit. A copy
19 of the BIA's decision is attached to this joint status report.

20 (8) The BIA and the parties have provided the Ninth Circuit with a copy of the BIA's decision
21 for its consideration.

22 (9) Rajinder Singh filed a motion with the BIA on June 1, 2010, asking for reconsideration of
23 its April 30, 2010 decision. The petitioner has provided a copy of her motion for reconsideration
24 to the Ninth Circuit.

25 (10) The parties continue to believe it would be prudent to await the Ninth Circuit's decision
26 in *Rajinder Singh* before filing any further briefing in the above-entitled matter and, accordingly,
27 ask this Court to hold this case in abeyance for an additional six months. In the event the Ninth
28 Circuit issues a decision in the interim, the parties will promptly notify the Court.

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Date: June 17, 2010

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

/s/
EDWARD A. OLSEN
Assistant United States Attorney
Attorneys for Respondents

Date: June 17, 2010

/s/
JAMES TODD BENNETT
Attorney for Petitioner