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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LETICIA GONZALEZ JIMENEZ,
Petitioner,
v.
JANET NAPOLITANO, et al.,
Respondents.

Case No. 5:12-cv-03558-RMW

ORDER DISMISSING CASE

Re: Dkt. Nos. 31, 32

Petitioner Letitia Gonzalez Jimenez seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 based on ineffective assistance of counsel. Dkt. No. 1. On September 30, 2013 the court granted petitioner's motion to stay her petition for habeas corpus pending exhaustion of her administrative remedies. In the following 32 months, petitioner failed to file any motion to reopen her case before the BIA. On June 25, 2015, following three status updates indicating that petitioner had failed to file any administrative motion to reopen her case before the BIA, the court lifted the stay. Dkt. No. 30. The court also ordered petitioner to show cause why her case should not be dismissed for failure to diligently prosecute. *Id.*


Petitioner's response to the order to show cause agreed that the petitioner should be dismissed, but asks that the court dismiss the petitioner without prejudice. Dkt. No. 31. Respondents request that the dismissal be with prejudice, because petitioner is not seeking to reopen her administrative proceedings based on ineffective assistance of counsel, but rather "for

5:12-cv-03558-RMW
ORDER DISMISSING PETITION

1 purposes of a remand for administrative closure based on an approved, but not yet available fourth
2 preference immigration visa in lieu of reopening based on ineffective assistance of counsel.” Dkt.
3 No. 31 at 2. Because petitioner apparently has no plans to exhaust her administrative remedies
4 with regard to the ineffective assistance of counsel claim, as required to pursue her petition in
5 federal court, see Dkt. No. 25, the court will dismiss her petition WITH PREJUDICE to any claim
6 based on ineffective assistance of counsel.

7 **IT IS SO ORDERED.**

8 Dated: July 29, 2015

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10 Ronald M. Whyte
11 United States District Judge

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