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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,	)	No. CV09-0444-PHX-SRB
Plaintiff,	)	<b>ORDER</b>
vs.	)	
	)	
Maria D. Forman, et al.,	)	
Defendants.	)	

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The Court has considered Elmer P. Vild’s Motion for Dismissal Under Rule 12(b), the United States’ response and the reply.

Defendant’s Motion is a Motion for Reconsideration of this Court’s earlier denial of a similar motion.

The Court has discretion to reconsider and vacate a prior order. *Barber v. Hawaii*, 42 F.3d 1185, 1198 (9th Cir. 1994). Motions for reconsideration are generally disfavored, however, and should be granted only in rare circumstances. *See Ross v. Arpaio*, No. CV 05-4177-PHX-MHM (ECV), 2008 WL 1776502, at \*2 (D. Ariz. April 15, 2008) (citing *Defenders of Wildlife v. Browner*, 909 F. Supp. 1342, 1351 (D. Ariz. 1995)). Disagreement with an order is an insufficient basis for reconsideration. *See id.* (citing *Leong v. Hilton Hotels Corp.*, 689 F. Supp. 1572, 1573 (D. Haw. 1988)). Nor should reconsideration be used to make new arguments or to ask the Court to rethink its analysis. *See id.* (citing *United States v. Rezzonico*, 32 F. Supp. 2d 1112, 1116 (D. Ariz. 1998)); *see also Nw. Acceptance*

1 *Corp. v. Lynnwood Equip., Inc.*, 841 F.2d 918, 925-26 (9th Cir. 1988); accord *Backlund v.*  
2 *Barnhart*, 778 F.2d 1386, 1388 (9th Cir. 1985). Reconsideration is only appropriate if: (1)  
3 the court is presented with newly discovered, previously unavailable, evidence; (2) the court  
4 committed a clear error of law and the initial decision was manifestly unjust; or (3) there has  
5 been an intervening change in controlling law. *Sch. Dist. No. 1J, Multnomah County, Or. v.*  
6 *ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Such a motion, however, may not be used  
7 to re-litigate old matters or to raise arguments that could have been raised before. *See, e.g.,*  
8 *Backlund*, 778 F.2d at 1388.

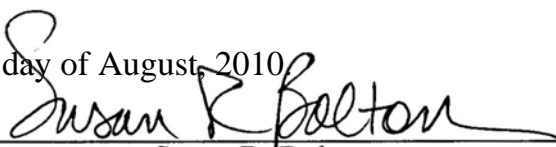
9 Motions for reconsideration cannot be used to ask the Court “to rethink what the  
10 court has already thought through,” merely because a plaintiff disagrees with the Court’s  
11 decision. *Rezzonico*, 32 F. Supp. 2d at 1116 (quoting *Above the Belt, Inc. v. Mel Bohannan*  
12 *Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983)); *see also Refrigeration Sales Co., Inc. v.*  
13 *Mitchell-Jackson, Inc.*, 605 F. Supp. 6, 8 (N.D. Ill. 1983). Such disagreements should be  
14 dealt with in the normal appellate process, not on a motion for reconsideration. *Database*  
15 *Am., Inc. v. Bellsouth Adver. & Publ’g Corp.*, 825 F. Supp. 1216, 1220 (D.N.J. 1993);  
16 *Refrigeration Sales Co., Inc.*, 605 F. Supp. at 7.

17 This case does not fall within one of those narrow instances where reconsideration is  
18 appropriate. The moving party must show more than a disagreement with the court’s  
19 decision; a court should not grant a motion for reconsideration unless the moving party  
20 shows that a clear error of law has been committed and the initial decision was manifestly  
21 unjust.

22 Nothing in Defendant’s motion convinces this Court that it should reconsider its  
23 earlier determination of jurisdiction.

24 IT IS ORDERED denying Elmer P. Vild’s Motion for Dismissal Under Rule 12(b)  
25 (Doc. 89).

26 DATED this 2<sup>nd</sup> day of August, 2010

27 

28 Susan R. Bolton  
United States District Judge