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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Anthony Wayne Chui,

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No. CV-07-2519-PHX-DGC (GEE)

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Petitioner,

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ORDER

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vs.

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Katrina Kane, ICE, Department of
Homeland Security,

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Respondent.

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On August 11, 2008, the Court issued an order dismissing Petitioner’s petition for writ of habeas corpus and the Clerk entered judgment accordingly. Dkt. ##13-14. The Court subsequently denied Petitioner’s motion to vacate the order of dismissal and judgment. Dkt. ##16-18. Petitioner filed a notice of appeal with the Court of Appeals for the Ninth Circuit on September 8, 2008. Dkt. #19.

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Petitioner has now filed, pursuant to Rules 59(e) and 60(b) of the Federal Rules of Civil Procedure, a motion to vacate both the order of dismissal and judgment and the order denying Petitioner’s initial motion to vacate. Dkt. #22. The Court will deny the motion.

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Once a notice of appeal is filed, the district court generally “is divested of jurisdiction over the matters being appealed.” *Nat. Res. Def. Council v. S.W. Marine Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001). The district court retains jurisdiction to decide motions filed pursuant to Rules 59(e) and 60(b) if such motions are filed no later than ten days after the entry of judgment. *See* Fed. R. App. P. 4(a)(4)(A)(v)-(vi); Fed. R. Civ. P. 59(e).

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1 Judgment was entered in this case on August 11, 2008. Dkt. #14. Plaintiff filed his
2 renewed motion to vacate the order of dismissal and judgment on September 12, 2008, more
3 than ten days after the entry of judgment. Dkt. #22. The Court therefore lacks jurisdiction
4 over the motion and otherwise declines to entertain or grant the motion. *See Vickerman v.*
5 *Dep't of HUD*, No. 3:03-CV-00222-LRH (VPC), 2007 WL 2079732, at *1-2 (D. Nev.
6 July 13, 2007). The Court also declines to reconsider its order denying Petitioner's initial
7 motion to vacate. *See Ross v. Arpaio*, No. CV 05-4177-PHX-MHM (ECV), 2008 WL
8 1776502, at *2 (D. Ariz. Apr. 15, 2008) (motions for reconsideration are disfavored and
9 should not be used to make new arguments or to ask the court to rethink its analysis); LRCiv
10 7.2(g)(1) ("No motion for reconsideration of an Order may repeat any oral or written
11 argument made by the movant in support of or in opposition to the motion that resulted in the
12 Order.").

13 **IT IS ORDERED:**

- 14 1. Petitioner's motion to set aside and vacate order of dismissal and judgment and
15 post-judgment order (Dkt. #22) is **denied**.
- 16 2. Petitioner's motion for extension of time (Dkt. #22) is **denied** as moot.

17 DATED this 18th day of September, 2008.

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David G. Campbell
United States District Judge