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NOT FOR PUBLICATION

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**IN THE UNITED STATES DISTRICT COURT**

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**FOR THE DISTRICT OF ARIZONA**

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9 David Novak,

No. CV-15-02234-PHX-JJT

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Plaintiff,

**ORDER**

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v.

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Arizona, State of,

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Defendant.

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At issue is the Motion for Reinstatement of Lawsuit and Opportunity to Amend Lawsuit or in the Alternative, if Not Granted, Notice of Appeal to the Federal Ninth Circuit Court of Appeals (Doc. 8), filed by *pro se* Plaintiff David Novak. On December 10, 2015, upon screening Plaintiff's Complaint as required by 28 U.S.C. § 1915(e)(2), the Court dismissed Plaintiff's claims against the State of Arizona with prejudice because the doctrine of state sovereign immunity precludes Plaintiff from seeking money damages against the State and, with regard to Plaintiff's request for injunctive relief, a federal district court cannot review state court decisions in an appellate capacity. (Doc. 7.) Because Plaintiff cannot remedy his claims against the State by amending the Complaint, the Court dismissed his claims with prejudice.

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Plaintiff now asks the Court to reconsider its decision. Motions for reconsideration should be granted only in rare circumstances. *Defenders of Wildlife v. Browner*, 909 F. Supp. 1342, 1351 (D. Ariz. 1995). A motion for reconsideration is appropriate where the district court "(1) is presented with newly discovered evidence, (2) committed clear error

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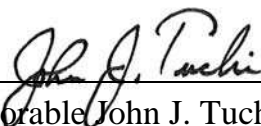
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1 or the initial decision was manifestly unjust, or (3) if there is an intervening change in  
2 controlling law.” *School Dist. No. 1J, Multnomah Cnty. v. ACandS, Inc.*, 5 F.3d 1255,  
3 1263 (9th Cir. 1993). Mere disagreement with a previous order is an insufficient basis for  
4 reconsideration. *See Leong v. Hilton Hotels Corp.*, 689 F. Supp. 1572, 1573 (D. Haw.  
5 1988). A motion for reconsideration “may not be used to raise arguments or present  
6 evidence for the first time when they could reasonably have been raised earlier in the  
7 litigation.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). Nor  
8 may a motion for reconsideration repeat any argument previously made in support of or  
9 in opposition to a motion. *Motorola, Inc. v. J.B. Rodgers Mech. Contractors, Inc.*, 215  
10 F.R.D. 581, 586 (D. Ariz. 2003). Plaintiff has provided the Court with no basis to  
11 withdraw its prior decision, and the Court must therefore deny Plaintiff’s Motion for  
12 Reconsideration. The Court thus construes Plaintiff’s Motion as a Notice of Appeal, filed  
13 December 22, 2015.

14 IT IS THEREFORE ORDERED denying Plaintiff’s Motion for Reinstatement of  
15 Lawsuit and Opportunity to Amend Lawsuit (Doc. 8).

16 IT IS FURTHER ORDERED directing the Clerk of Court to construe Plaintiff’s  
17 Motion as a Notice of Appeal filed on December 22, 2015 (Doc. 8), and process the  
18 Notice of Appeal accordingly.

19 Dated this 14<sup>th</sup> day of January, 2016.

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23 Honorable John J. Tuchi  
24 United States District Judge  
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