

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WO**

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

Craig Murray Jones,  
  
Petitioner,  
  
v.  
  
Attorney General of the State of Arizona, et  
al.,  
  
Respondents.

No. CV-19-05258-PHX-DJH  
**ORDER**

Pending before the Court is Petitioner Craig Murray Jones’s (“Petitioner”) Motion for Reconsideration (Doc. 36) of the Court’s Order denying Petitioner’s request for an extension of time to file objections to Magistrate Judge James F. Metcalf’s recommendation (Doc. 33) that his Motions for Release and Appointment of Counsel (Doc. 17) be denied.

**I. Background**

Petitioner initiated this action on September 23, 2019, by filing a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (“Petition”). (Doc. 1). On October 7, 2020, while the Petition was pending before Magistrate Judge Metcalf, Petitioner filed a “Motion for Release From Confinement on Recognizance or Surety Pending Adjudication of Habeas Corpus Proceedings; In the Alternative Motion for Appointment of Counsel” (“Motion”) (Doc. 17). On August 20, 2021, Magistrate Judge Metcalf issued his Report and Recommendation (“R&R) (Doc. 33). Therein, Judge Metcalf recommends this Court dismiss Petitioner’s Petition as untimely; he also recommends that this Court deny the relief

1 sought in Petitioner’s Motion. (*Id.*) Petitioner subsequently asked this Court for an  
2 extension of time to file objections to the R&R on the grounds that he was not being  
3 provided adequate mental health treatment. (Doc. 34). The Court allowed Petitioner an  
4 additional 30 days to file objections to Judge Metcalf’s recommendation that his Petition  
5 be dismissed but required that any objections with regards to the recommendation that his  
6 Motion for Release and Motion for Appointment of Counsel be denied be filed by  
7 September 7, 2021. (Doc. 35). Instead of filing an objection by this deadline, Petitioner  
8 filed a Motion for Reconsideration of that Order (Doc. 36), in which he states he “suffers  
9 from serious documented, diagnosed mental illnesses that interferes with his logical and  
10 meaningful connection to things presented to him...” Petitioner further states that he  
11 “believed the 30 day extension of time would have covered all issues within the [R&R]”  
12 including the recommendations on his Motion. (*Id.*)

### 13 **I. Legal Standards**

14 The Court has discretion to reconsider and vacate a prior order. *Barber v. Hawaii*,  
15 42 F.3d 1185, 1198 (9th Cir. 1994). But motions for reconsideration are generally  
16 disfavored and should be denied “absent a showing of manifest error or a showing of new  
17 facts or legal authority that could not have been brought to [the Court’s] attention earlier  
18 with reasonable diligence.” LRCiv. 7.2(g); *See also Defenders of Wildlife v. Browner*, 909  
19 F. Supp. 1342, 1351 (D. Ariz. 1995) (holding motions for reconsideration should be  
20 granted only in rare circumstances). Mere disagreement with a previous order is an  
21 insufficient basis for reconsideration. *See Leong v. Hilton Hotels Corp.*, 689 F. Supp. 1572,  
22 1573 (D. Haw. 1988). Nor may a motion for reconsideration repeat any argument  
23 previously made in support of or in opposition to a motion. *Motorola, Inc. v. J.B. Rodgers*  
24 *Mech. Contractors, Inc.*, 215 F.R.D. 581, 586 (D. Ariz. 2003). Such motions should not  
25 be used for the purpose of asking a court “to rethink what the court had already thought  
26 through — rightly or wrongly.” *Wildlife*, 909 F. Supp. at 1351. Such disagreements should  
27 be dealt with in the normal appellate process. *See Ramsey v. Arizona*, 2006 WL 2711490,  
28 at \*1 (D. Ariz. Sept. 21, 2006).

1     **II.     Analysis**

2             Petitioner seeks reconsideration of the denial on the grounds that he has “serious  
3 documented, diagnosed mental illnesses” and thus should be afforded extra time to object  
4 to Judge Metcalf’s recommendation that his Motion be denied. (Doc. 36). In doing so,  
5 Petitioner repeats the same arguments he made in his Motion for an Extension of Time.  
6 (See Doc. 34). Petitioner’s failure to raise any new facts that the Court did not already have  
7 an opportunity to consider when it denied his previous request for more time is grounds to  
8 deny the Motion for Reconsideration. *Motorola, Inc.*, 215 F.R.D. at 586 (motion for  
9 reconsideration shall not repeat an argument previously made). Notably, Petitioner makes  
10 similar assertions of “deteriorating health” in his Motion for Release, which the Magistrate  
11 Judge criticized as lacking in specifics. (Doc. 17). Both Petitioner’s request for an  
12 extension of time to respond to Magistrate Judge Metcalf’s recommendation that his  
13 Motion for Release and Motion to Appoint Counsel and motion for reconsideration also  
14 lack specifics regarding his health. Petitioner also does not explain how an additional 30  
15 days will allow him to respond to the Magistrate Judge’s recommendations, i.e., he does  
16 not say his mental health issues will be resolved in that time or identify objections he wants  
17 to make to Magistrate Judge’s legal and factual findings on his two requests that require  
18 additional time. Petitioner has shown himself capable of presenting timely and relevant  
19 arguments in support of himself throughout these proceedings. While the Court granted  
20 Petitioner’s request for an extension of time to respond to the Magistrate Judge’s more  
21 complex and lengthy findings on his Petition, the Court affirms the conclusion that  
22 Petitioner should be able to timely file any objection regarding these two discrete rulings  
23 before that deadline.

24             Under the Court’s prior Order (Doc. 35), Petitioner’s objection to Judge Metcalf’s  
25 recommendations on his Motion was due on September 7, 2021, and therefore any  
26 objection is now late. The Court will nevertheless grant Petitioner a seven-day extension  
27 to file his objection. Petitioner is on notice that failure to file an objection by September  
28 15, 2021, may result in the summary affirmance of the Magistrate Judge’s recommendation

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

on his Motion (Doc. 17).

Accordingly,

**IT IS ORDERED** that Petitioner’s Motion for Reconsideration (Doc. 36) is **denied**.  
Petitioner’s objection to Magistrate Judge Metcalf’s recommendation that his Motion  
(Doc. 17) be denied is due by September 15, 2021.

Dated this 8th day of September, 2021.

  
\_\_\_\_\_  
Honorable Diane J. Humetewa  
United States District Judge