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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Leonard Turner,

10 Petitioner,

11 v.

12 Charles L. Ryan, et al.,

13 Respondents.  
14

No. CV-17-00179-TUC-JGZ (JR)

**ORDER**

15 On August 19, 2019, the Court entered an Order adopting Magistrate Judge  
16 Jacqueline Rateau's Report and Recommendation (R&R) to dismiss Turner's habeas  
17 petition. (Doc. 21.) Now pending before the Court, is Turner's Motion for Reconsideration  
18 of that Order. (Doc. 23.) The Court will deny the motion.

19 Turner asserts three arguments in support of reconsideration: (1) he did not consent  
20 to the Magistrate Judge's consideration of his case; (2) he challenges the Court's finding  
21 that his Objection to the R&R was untimely filed; and (3) he re-asserts arguments he raised  
22 before the Magistrate Judge and in his Objection concerning his claims related to the  
23 Intoxilyzer used in his case.

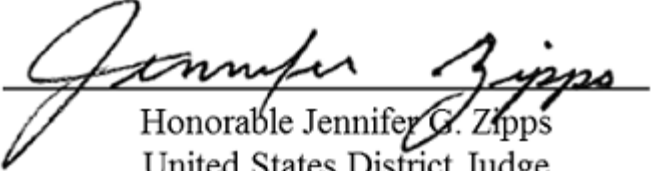
24 A motion for reconsideration is appropriate where the district court "(1) is presented  
25 with newly discovered evidence, (2) committed clear error or the initial decision was  
26 manifestly unjust, or (3) if there is an intervening change in controlling law." *School Dist.*  
27 *No. 1J, Multnomah Cty. v. AcandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *see also* LRCiv.  
28 7.2(g)(1). Motions for reconsideration should not be used for the purpose of asking a court

1 “to rethink what the court had already thought through—rightly or wrongly.” *Defenders*  
2 *of Wildlife v. Browner*, 909 F.Supp. 1342, 1351 (D. Ariz. 1996) (quoting *Above the Belt,*  
3 *Inc. v. Mel Bohannan Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983)).

4 Turner’s Motion for Reconsideration is unpersuasive. First, Turner’s “consent” to  
5 the Magistrate Judge’s consideration of his habeas petition is not required. The Court  
6 referred the matter to Magistrate Judge Rateau for report and recommendation pursuant to  
7 Rules 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings. (Doc.  
8 4.) *See also* 28 U.S.C. § 636(b)(1). Second, even if Turner’s Objection was timely filed,  
9 this Court found that Petitioner’s arguments raised in his objection did not undermine the  
10 Magistrate Judge’s analysis and recommendation. (Doc. 21 at 2.) Finally, Turner  
11 essentially raises the same arguments that he asserted in his Objection, which the Court  
12 considered in adopting the R&R.<sup>1</sup> “A motion for reconsideration is not an appropriate  
13 method for an unsuccessful party to rehash arguments previously presented.” *Shupe v.*  
14 *Cricket Commc’ns Inc.*, No. CV 12-634-TUC-CKJ, 2013 WL 12114837, at \*1 (D. Ariz.  
15 Sept. 18, 2013) (internal quotation marks and citations omitted). Accordingly,

16 IT IS ORDERED that Petitioner’s Motion to Reconsider (Doc. 23) is DENIED.

17 Dated this 11th day of October, 2019.

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19   
20 Honorable Jennifer G. Zipp  
21 United States District Judge  
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25 <sup>1</sup> The Court notes that Turner’s Motion for Reconsideration refers to two 2019  
26 airline crashes he contends occurred because software was not updated. Turner did not  
27 mention these crashes in his previous filings. He apparently relies on the crashes to  
28 underscore his position maintained throughout this litigation that software issues can render  
machines, like the Intolixyzer used to test his breath alcohol concentration, unreliable. The  
crashes have no relevance to this case other than for purposes of analogy. Consequently,  
Turner’s reference to the crashes to re-urge an argument he has previously and repeatedly  
made does not constitute “newly discovered evidence” that would entitle him to  
reconsideration.