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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 GEORGE N. MARTHA,

No. C 13-5401 SI (pr)

9 Petitioner,

**ORDER DENYING POST-
JUDGMENT MOTIONS**

10 v.

11 ICE GOVERNMENT; et al.,

12 Respondents.
13 _____/

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15 Petitioner filed this *pro se* action for a writ of habeas corpus, apparently to challenge a
16 final order of the United States Department of Immigration and Customs Enforcement (“I.C.E.”)
17 that he be removed from the United States and sent to Israel. In an order filed December 10,
18 2013, the court explained that the REAL ID Act of 2005 made the United States Court of
19 Appeals the sole judicial body able to review challenges to final orders of removal, and
20 dismissed the petition without prejudice to petitioner filing a petition for review in the United
21 States Court of Appeals for the Ninth Circuit. The court later denied petitioner's motion for
22 reconsideration. Petitioner then filed a notice of appeal.

23 This matter is now before the court for consideration of petitioner's several post-judgment
24 motions. Petitioner's motion to terminate the I.C.E. case (Docket # 22) and motion for jury trial
25 on the dismissal (Docket # 26) are DENIED because the existence of the pending appeal divests
26 this court of jurisdiction over those aspects of the case involved in the appeal. *See Griggs v.*
27 *Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (it is "generally understood that a
28 federal district court and a federal court of appeals should not attempt to assert jurisdiction over

1 a case simultaneously"); *Pope v. Savings Bank of Puget Sound*, 850 F.2d 1345, 1347 (9th Cir.
2 1988). Assuming arguendo that this court retains jurisdiction to decide the collateral matters of
3 a motion for appointment of counsel and for a fee waiver, the motions will be denied.
4 Petitioner's motion to appoint counsel (Docket # 27) is DENIED because the interests of justice
5 are not served by appointing counsel after a case has been dismissed. *See* 18 U.S.C. §
6 3006A(a)(2)(B) (appointment of counsel appropriate when "the court determines that the
7 interests of justice so require"). Petitioner's motion to waive fees (Docket # 28) is DENIED
8 because the court does not have authority to waive the filing fees for an appeal. The denial of
9 these motions is without prejudice to petitioner filing them again in the Ninth Circuit. All
10 further motions should be made to the Ninth Circuit while the appeal is pending.

11 IT IS SO ORDERED.

12 DATED: March 21, 2014



SUSAN ILLSTON
United States District Judge