

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02274-LTB-KLM

JEFFREY T. MAEHR

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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**ORDER DENYING RECONSIDERATION**

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**ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX**

This matter is before the Court on Petitioner's **Motion for Reconsideration** [Docket No. 18; Filed May 8, 2009] (the "Motion"). Petitioner seeks reconsideration of the Court's recommendation that the United States' Motion for Summary Denial of Petition to Quash be granted. [Docket No. 17].

A motion for reconsideration "is an extreme remedy to be granted in rare circumstances." *Brumark Corp. v. Samson Res. Corp.*, 57 F.3d 941, 944 (10th Cir. 1995). It is well established in the Tenth Circuit that grounds for a motion to reconsider include: "(1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice." *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000) (citing *Brumark*, 57 F.3d at 948). Therefore, a motion to reconsider is "appropriate [only] where the court has misapprehended the facts, a party's position, or the controlling law. It is not appropriate to revisit issues already

addressed or advance arguments that could have been raised in prior briefing.” *Id.*

The Court construes the present Motion as an attempt to take a second bite at the apple. The Motion does not set forth new evidence previously unavailable to Petitioner, and it does not cite a change in the law. Moreover, considering that the Court’s denial of Petitioner’s underlying motion was not the result of a misapprehension of Petitioner’s position, the facts, or the law, but rather a discretionary decision based on the sufficiency of the underlying motion, I find that Petitioner has failed to articulate clear error or manifest injustice. To the extent that Petitioner attempts to refine his arguments or assert facts which pre-existed the previous motion, the Court is unpersuaded that Petitioner has satisfied his burden to obtain reconsideration. *See id.* Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **DENIED**.

Dated: May 12, 2009

BY THE COURT:

s/ Kristen L. Mix  
U.S. Magistrate Judge