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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LUIS MELENDEZ,

No. C 08-4670 WHA (PR)

Petitioner,

**ORDER GRANTING MOTION TO
RECONSIDER AND REOPENING
CASE**

vs.

B. CURRY, Warden,

Respondent.

_____ /

This pro se habeas action was filed on October 9, 2008. On that same day the court notified petitioner that he had neither paid the five dollar filing fee nor submitted an application for leave to proceed in forma pauperis. He was informed that if he did not either pay the fee or file the application within thirty days the case would be dismissed. When no response had been received by December 1, 2008, the case was dismissed.

Petitioner has written regarding the dismissal. Because in the letter he asks the Court to reconsider the dismissal, it will be treated as a motion to reconsider. The letter, stamped "received" December 10, 2008, shall be filed.

The letter is signed under penalty of perjury, so functions as a declaration. In it petitioner says that on October 14, 2008, he hand-delivered a trust account withdrawal slip to a correctional counselor, with instructions to mail a check to the clerk. He says he has no idea why the payment was not sent.

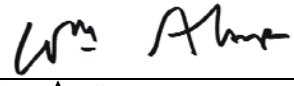
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In view of the above, the motion to reconsider is **GRANTED**. The clerk shall reopen the case. Petitioner shall pay the filing fee within thirty days of the date of this order or the case once again will be dismissed.

IT IS SO ORDERED.

Dated: December 18, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE