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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

BENNY OLIVENCIA,

Petitioner,

No. C 12-3324 PJH (PR)

v.

YATES, Warden,

Respondent.

**ORDER VACATING  
DISMISSAL AND  
REOPENING CASE**

This is a habeas case filed by a state prisoner, though petitioner did not file an application to proceed in forma pauperis or pay the filing fee. On July, 18, 2012, petitioner was informed that if he did not either pay the fee or file a complete application within thirty days the case would be dismissed. On August 31, 2012, when no response was received within the time allowed, the case was dismissed. On October 1, 2012, petitioner filed an application to proceed in forma pauperis that will be construed as a late filing and a motion for reconsideration of the dismissal. The motion will be **GRANTED** and the order dismissing this case (document number 6 on the docket) and the judgment entered thereon (document number 7) are **VACATED** and the clerk shall **REOPEN** this case.

**IT IS SO ORDERED.**

Dated: November 26, 2012.

  
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PHYLLIS J. HAMILTON  
United States District Judge

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**United States District Court**  
For the Northern District of California