

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

DAVID NIEVES,

Petitioner,

v.

CASE NO. 1:11-cv-235-SPM-GRJ

SECRETARY, DEPARTMENT
OF CORRECTIONS,

Respondent.

_____ /

Petitioner, an inmate in state custody proceeding *pro se*, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1.) Petitioner did not, however, file a motion for leave to proceed *in forma pauperis* or pay the filing fee. Review of Petitioner's petition therefore will be deferred until the \$5.00 filing fee is paid or an application for leave to proceed *in forma pauperis* is submitted.

Accordingly, it is **ORDERED**:

1. The Clerk of Court shall forward to Petitioner an application for leave to proceed *in forma pauperis*.
2. Petitioner shall have until **November 18, 2011** to either file an application for leave to proceed *in forma pauperis* or pay the \$5.00 filing fee.
3. **Failure to respond to this order as instructed will result in a recommendation of dismissal of this action for failure to prosecute and failure to comply with an order of this court.**

DONE AND ORDERED this 2nd day of November, 2011.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge