

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION

JORGE L. NIEBLA,  
Plaintiff,

vs.

Case No. 5:08cv249/SPM/EMT

APALACHEE CORRECTIONAL  
INSTITUTION,  
Defendant.

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**REPORT AND RECOMMENDATION**

This cause is before the court upon referral from the clerk. Plaintiff commenced this action by filing a civil rights complaint under 42 U.S.C. § 1983 (Doc. 1). On August 13, 2008, this court entered an order giving Plaintiff thirty (30) days in which to pay the \$350.00 filing fee or file a complete application to proceed in forma pauperis (Doc. 3). Plaintiff failed to respond to the order; therefore, on September 17, 2008, the court issued an order requiring Plaintiff to show cause, within twenty (20) days, why this action should not be dismissed for failure to comply with an order of the court (Doc. 5). The time for compliance with the show cause order has now elapsed and Plaintiff has not paid the filing fee or filed a complete motion to proceed in forma pauperis.

Accordingly, it is respectfully **RECOMMENDED**:

That this case be **DISMISSED without prejudice** for Plaintiff's failure to comply with an order of the court.

At Pensacola, Florida, this 9<sup>th</sup> day of October 2008.

*/s/ Elizabeth M. Timothy*

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**ELIZABETH M. TIMOTHY**  
**UNITED STATES MAGISTRATE JUDGE**

**NOTICE TO THE PARTIES**

**Any objections to these proposed findings and recommendations must be filed within ten days after being served a copy thereof. Any different deadline that may appear on the electronic docket is for the court's internal use only. A copy of objections shall be served upon all other parties. Failure to object may limit the scope of appellate review of factual findings. *See* 28 U.S.C. § 636; United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988).**