

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

JORGE L. NIELBA,

Plaintiff,

vs.

5:08-CV-249-SPM/EMT

APALACHEE CORRECTIONAL INSTITUTION,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

THIS CAUSE comes before the Court upon the Magistrate Judge's Report and Recommendation. (doc.6) On August 13, 2008, the Magistrate Judge directed Plaintiff to pay the filing fee or complete and file an application to proceed in forma pauperis. (doc. 3) As of December 2, 2008, Plaintiff is still not in compliance with this order.

After the filing of the Report and Recommendation recommending dismissal of this case, the parties were afforded an opportunity to file objections. Plaintiff attempted to file a document with the Court that was not in compliance with local rules. Two orders were sent to Plaintiff instructing him as to these filing deficiencies. (docs. 3 and 5) These orders gave Plaintiff an opportunity to cure the deficiencies and then resubmit the document. To date, Plaintiff has not cured the deficiencies and resubmitted the document.

Accordingly, pursuant to Title 28, United States Code, Section 636(b)(1), it is hereby ORDERED AND ADJUDGED as follows:

1. The Magistrate Judge's Report and Recommendation (doc. 6) is adopted and incorporated by reference in this order.
2. This case is ***dismissed without prejudice*** for failure to comply with an order of the Court.

DONE AND ORDERED this fifth day of December, 2008.

*s/ Stephan P. Mickle*  
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Stephan P. Mickle  
United States District Judge