

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RAMIRO HERNANDEZ a/k/a	§	
RAMIRO HERNANDEZ LLANAS,	§	
TDCJ No. 999342,	§	
	§	
Petitioner,	§	
	§	
V.	§	CIVIL NO. SA-08-CA-805-XR
	§	
RICK THALER, Director,	§	
Texas Department of Criminal	§	
Justice, Correctional	§	
Institutions Division,	§	
	§	
Respondent.	§	

ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL

The matters before the Court are petitioner's motion for leave to proceed *in forma pauperis* on appeal, filed March 6, 2012, docket entry no. 79, and petitioner's supplement to his motion for leave to proceed *in forma pauperis* on appeal, filed March 7, 2012, docket entry no. 80.

Petitioner's certified inmate trust account statement demonstrates petitioner currently lacks sufficient financial resources to pay the appellate filing fee in this cause.

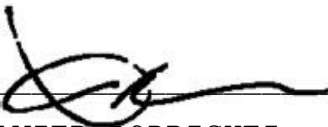
In this Court's Memorandum Opinion and Order issued September 23, 2011, docket entry no. 68, this Court denied petitioner federal habeas corpus relief but granted petitioner a Certificate of Appealability on his *Atkins* claim. *Hernandez-Llanas v. Thaler*, 4437091 (W.D. Tex. September 23, 2011). In his Notice of Appeal, filed March 6, 2012, petitioner indicates his

intention to seek Fifth Circuit review of this court's denial of petitioner's *Atkins* claim. Thus, petitioner's appeal contains at least one non-frivolous issue. Therefore, petitioner is entitled to proceed *in forma pauperis* on appeal in accordance with Rule 24(a), Federal Rules of Appellate Procedure.

According, it is hereby **ORDERED** that petitioner's motion for leave to proceed *in forma pauperis* on appeal, filed March 6, 2012, docket entry no. 79, as supplemented by petitioner's pleading filed March 7, 2012, docket entry no. 80, is **GRANTED**.

It is so ORDERED.

SIGNED this 12 day of March, 2012.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE