

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**AUGUSTINE PEREZ,**  
*Plaintiff-Appellant,*

v.

**UNITED STATES,**  
*Defendant-Appellee.*

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2011-5129

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Appeal from the United States Court of Federal  
Claims in case no. 10-CV-821, Judge Francis M. Allegra.

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**ON MOTION**

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**O R D E R**

The petitioner moves to reinstate his appeal and for  
leave to proceed in forma pauperis.

The court notes that this appeal was dismissed on Oc-  
tober 28, 2011 for failure to pay the fee.

Perez is incarcerated. Pursuant to the Prisoner Liti-  
gation Reform Act of 1995, this court may not authorize  
the prosecution of an appeal by a prisoner without the  
prepayment of fees. 28 U.S.C. § 1915. A prisoner is no

longer afforded the alternative of proceeding without payment of filing fees, but must, in time, pay the \$450 filing fee in its entirety. When funds exist, an initial partial payment must be made consisting of 20% of the greater of (a) the average monthly deposits to the prisoner's account or (b) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the notice of appeal. 28 U.S.C. § 1915(b)(1). Thereafter, the prisoner is required to make monthly payments of 20% of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2). The agency with custody of the prisoner must forward payments from the prisoner's account each time the amount in the account exceeds \$10 until the \$450 filing fee is paid in full. *Id.*

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion for leave to proceed in forma pauperis is denied.

(2) The mandate is recalled, the court's dismissal order is vacated, and the petition is reinstated. The United States should calculate its brief due date from the date of filing of this order.

FOR THE COURT

DEC 28 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Augustine Perez  
Lauren S. Moore, Esq.

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**FILED**  
**U.S. COURT OF APPEALS FOR**  
**THE FEDERAL CIRCUIT**

DEC 28 2011

**JAN HORBALY**  
**CLERK**