

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7549

DAVID WALKER LAMB,

Petitioner - Appellant,

versus

WARDEN, NOTTOWAY CORRECTIONAL CENTER,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CA-99-668-7)

Submitted: February 9, 2001

Decided: March 12, 2001

Before WILLIAMS, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David Walker Lamb, Appellant Pro Se. Linwood Theodore Wells, Jr., Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

David Walker Lamb seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000). Lamb's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied and advised Lamb that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Lamb failed to object to the magistrate judge's recommendation.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Lamb has waived appellate review by failing to file objections after receiving proper notice. We accordingly deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED