

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-6201**

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NICK A. HOWIE,

Petitioner - Appellant,

versus

DERRICK WADSWORTH, Superintendent, Hyde Cor-  
rectional Institution,

Respondent - Appellee.

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Appeal from the United States District Court for the Middle Dis-  
trict of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief  
District Judge. (CA-00-607-1)

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Submitted: April 17, 2001

Decided: May 11, 2001

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Before WILKINS, MICHAEL, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Nick A. Howie, Appellant Pro Se. Clarence Joe DelForge, III,  
OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North  
Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Nick A. Howie appeals the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2000). Howie'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 Howie that the failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Howie 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. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Howie 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