

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6027

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FAUSTO RUIZ-VARGAS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CR-00-407; CA-03-629-1)

Submitted: June 18, 2004

Decided: July 16, 2004

Before WILKINSON, LUTTIG, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Fausto Ruiz-Vargas, Appellant Pro Se. Steven Hale Levin, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Fausto Ruiz-Vargas seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that relief be denied and advised Ruiz-Vargas that failure to file timely objections to the recommendation would waive appellate review of a district court order based upon the recommendation. Despite this warning, Ruiz-Vargas failed to object to the magistrate judge's recommendation.

The timely filing of specific 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); Thomas v. Arn, 474 U.S. 140 (1985). Ruiz-Vargas has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we 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