

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6084

EDWIN K. HARTZLER,

Petitioner - Appellant,

versus

HENRY DARGAN MCMASTER, Attorney General for
South Carolina,

Respondent - Appellee.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. G. Ross Anderson, Jr., District
Judge. (CA-03-750-3)

Submitted: June 10, 2004

Decided: June 17, 2004

Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Edwin K. Hartzler, Appellant Pro Se. Samuel Creighton Waters,
OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Edwin K. Hartzler seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (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 Hartzler 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, Hartzler 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. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Hartzler has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny a certificate of appealability, deny Hartzler's motion to proceed in forma pauperis, 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