

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7648

ROBERT CUMMINGS,

Plaintiff - Appellant,

versus

JAMES RUBENSTEIN, Commissioner of Corrections;
THOMAS MCBRIDE, Warden; JENNIFER BALLARD; TIM
CREASEY, Magistrate; LEE ESTEP; BEVERLY C.
GANDEE,

Defendants - Appellees.

Appeal from the United States District Court for the Southern
District of West Virginia, at Beckley. David A. Faber, Chief
District Judge. (CA-03-2195-5)

Submitted: February 25, 2005

Decided: March 10, 2005

Before WILKINSON, WILLIAMS, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Cummings, Appellant Pro Se. Charles Patrick Houdyschell,
Jr., WEST VIRGINIA DIVISION OF CORRECTIONS, Charleston, West
Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert Cummings appeals the district court's order dismissing without prejudice under 28 U.S.C. § 1915A(b) (2000) his complaint filed under 42 U.S.C. § 1983 (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 Cummings 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, Cummings failed to specifically object to the magistrate judge's recommendations to deny his Eighth Amendment claim and to dismiss some of the claims raised in the motion to amend for failure to exhaust administrative remedies.

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); United States v. One Parcel of Real Prop., 73 F.3d 1057, 1060 (10th Cir. 1996) (collecting cases finding general objection insufficient). Cummings has waived appellate review of those issues by failing to file specific objections after receiving proper notice.

Turning to the only issue preserved for appellate review,* we have reviewed the record and find no reversible error in the district court's dismissal of Cummings' First Amendment claim. Accordingly, we affirm for the reasons stated by the district court. See Cummings v. Rubenstein, No. CA-03-2195-5 (S.D.W. Va. Sept. 30, 2004). 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.

AFFIRMED

*We note that Cummings failed to challenge in his informal brief on appeal the basis for the district court's dismissal of his due process claims or his retaliation claims. Accordingly, he has waived appellate review of those issues. 4th Cir. R. 34(b) ("The Court will limit its review to the issues raised in the informal brief.").