

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7301

DAVID DWIGHT SMITH,

Plaintiff - Appellant,

versus

LARRY POWERS,

Defendant - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. G. Ross Anderson, Jr., District Judge. (6:05-cv-02497-GRA)

Submitted: November 15, 2006

Decided: November 22, 2006

Before WIDENER, WILKINSON, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

David Dwight Smith, Appellant Pro Se. Andrew Todd Darwin, HOLCOMBE, BOMAR, GUNN & BRADFORD, PA, Spartanburg, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

David Dwight Smith appeals the district court's order accepting the recommendation of the magistrate judge and denying relief on his 42 U.S.C. § 1983 (2000) complaint. 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 Smith that failure to file timely specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Smith failed to file specific objections 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 of the consequences of noncompliance. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Smith has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we affirm the judgment of the district court. We deny Smith's motion for appointment of counsel.

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