

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4955

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONALD STEVEN CAGLE,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Lacy H. Thornburg, District Judge. (1:06-cr-00266-LHT)

Submitted: February 26, 2009

Decided: March 3, 2009

Before NIEMEYER, MICHAEL, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

M. Victoria Jayne, Hickory, North Carolina, for Appellant.
Gretchen C.F. Shappert, United States Attorney, Charlotte, North Carolina;
Amy E. Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Donald Steven Cagle pled guilty pursuant to a conditional guilty plea to larceny of a firearm and possessing a stolen firearm, in violation of 18 U.S.C. §§ 922(j), 924(l) (2006). Cagle seeks to appeal the district court's order adopting the recommendation of the magistrate judge and denying Cagle's motion to suppress certain evidence on the ground that his consent to the search that produced the evidence was not voluntary. The district court referred the issue to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2006). After a hearing, the magistrate judge recommended that relief be denied and advised Cagle that failure to file timely objections to this recommendation could waive appellate review of any district court order based on the recommendation. Despite this warning, Cagle 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 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). Cagle has waived his right to argue that his consent to search was not

voluntary. See United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir. 2007).

Therefore, we affirm his conviction and sentence. 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