

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6236

LAWRENCE W. SKIPPER, JR.,

Petitioner - Appellant,

versus

GEORGE KENWORTH,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Senior District Judge. (1:06-cv-00709-WLO)

Submitted: July 25, 2007

Decided: August 17, 2007

Before NIEMEYER, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Lawrence W. Skipper, Jr., Appellant Pro Se. Clarence Joe DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lawrence W. Skipper, Jr., seeks to appeal the district court's order accepting the report and recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 petition without prejudice for failure to exhaust his state court remedies. 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 Skipper's § 2254 petition be dismissed and advised Skipper that failure to file timely and specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Skipper failed to file specific objections to the magistrate judge's recommendation. Rather, Skipper filed only a notice of appeal that was construed by the district court as a general objection to the magistrate judge's report and 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. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Skipper has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we deny a certificate of appealability and

dismiss the appeal. We also deny leave to proceed in forma pauperis on 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