

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-6404**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DERICK A. GEIGER,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph Robert Goodwin, District Judge. (2:01-cr-00261-5; 2:05-cv-00166)

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Submitted: July 31, 2007

Decided: August 17, 2007

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Before WILKINSON, NIEMEYER, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Derick A. Geiger, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Derick A. Geiger seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2000) motion. 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 in part and granted in part and advised Geiger that the failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Geiger 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). Geiger has waived appellate review by failing to timely file specific objections after receiving proper notice.\*

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\*To the extent Geiger claims for the first time on appeal that counsel failed to file a petition for panel and en banc rehearing in the appeal of the criminal judgment, we decline to address this claim. See U.S. Dep't of Labor v. Wolf Run Mining Co., 452 F.3d 275, 283 (4th Cir. 2006) ("Generally, an issue raised for the first time on appeal will not be considered, unless the refusal to consider it would result in a fundamental miscarriage of justice."). In addition, because Geiger did not challenge in his informal brief the district court's rejection of the claim that counsel provided ineffective assistance by failing to file a timely petition for writ of certiorari as requested by Geiger, we find that he has waived appellate review of that issue. See 4th Cir. R.  
(continued...)

Accordingly, we deny a certificate of appealability 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

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\* (...continued)  
34(b) ("The Court will limit its review to the issues raised in the informal brief.").