

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6745

EARL ELWOOD ALLEN,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Director of the Virginia Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Rebecca Beach Smith, District
Judge. (2:07-cv-00196-RBS-TEM)

Submitted: September 16, 2008 Decided: September 22, 2008

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Earl Elwood Allen, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Earl Elwood Allen seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition. 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 Allen 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, Allen 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). Allen 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 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