

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7993

KEITH M. WALTON,

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. Raymond A. Jackson, District
Judge. (2:08-cv-00062-RAJ-JEB)

Submitted: February 26, 2009

Decided: March 6, 2009

Before NIEMEYER and MICHAEL, Circuit Judges*.

Dismissed by unpublished per curiam opinion.

Keith M. Walton, Appellant Pro Se. Robert H. Anderson, III,
OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

* The opinion is filed by a quorum of the panel pursuant to
28 U.S.C. § 46(d) (2006).

PER CURIAM:

Keith M. Walton seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2006). The magistrate judge recommended that relief be denied and advised Walton 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, Walton 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). Walton has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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