

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6673

DANNY RAY STEPHENS,

Petitioner - Appellant,

v.

A. J. PADULA, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Patrick Michael Duffy, District Judge. (0:08-cv-00283-PMD)

Submitted: August 26, 2009

Decided: September 3, 2009

Before TRAXLER, Chief Judge, and GREGORY and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Danny Ray Stephens, Appellant Pro Se. Melody Jane Brown, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Danny Ray Stephens, a South Carolina prisoner, 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 Stephens that failure to timely file specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Stephens filed only a general objection 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. See United States v. Midgette, 478 F.3d 616, 621-22 (4th Cir.), cert. denied, 551 U.S. 1157 (2007); see also Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). Stephens has waived appellate review by failing to file specific objections after receiving proper notice. Accordingly, we deny leave to proceed in forma pauperis, 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