

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7107

ERIC YOUMOUS,

Petitioner - Appellant,

v.

WARDEN, LIEBER CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

JON OZMINT; STATE OF NORTH CAROLINA,

Respondents.

Appeal from the United States District Court for the District of South Carolina, at Florence. G. Ross Anderson, Jr., Senior District Judge. (4:08-cv-02504-GRA)

Submitted: October 20, 2009

Decided: October 26, 2009

Before TRAXLER, Chief Judge, NIEMEYER, Circuit Judge, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Eric Youmous, Appellant Pro Se. Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Youmous appeals the district court's order dismissing his 28 U.S.C. § 2254 (2006) petition as untimely. 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 granting Respondent's motion for summary judgment and dismissing the petition. The magistrate judge further advised Youmous 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, Youmous 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). Youmous has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny Youmous' motion for 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