

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-8209**

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GUSTAVO ALVARADO,

Petitioner - Appellant,

v.

TIM RILEY, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, Senior District Judge. (2:09-cv-01035-PMD)

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Submitted: March 16, 2010

Decided: March 24, 2010

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Before NIEMEYER, MOTZ, and DAVIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Gustavo Alvarado, Appellant Pro Se. Alphonso Simon, Jr., OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gustavo Alvarado 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 Alvarado 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, Alvarado 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). Alvarado has waived appellate review by failing to timely file 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