

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-7759**

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GREGORY PENCILLE,

Petitioner - Appellant,

v.

WARDEN OF LEE CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

JON OZMINT,

Respondent.

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Appeal from the United States District Court for the District of South Carolina, at Aiken. Richard Mark Gergel, District Judge. (1:09-cv-01862-RMG)

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Submitted: July 21, 2011

Decided: July 25, 2011

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Before NIEMEYER and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Gregory Pencille, Appellant Pro Se. James Anthony Mabry, Assistant Attorney General, 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Unpublished opinions are not binding precedent in this circuit.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:

Gregory Pencille seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2254 (2006) petition and his motion for reconsideration. The district court referred this case to a magistrate judge pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2006 & Supp. 2011). The magistrate judge recommended that relief be denied and advised Pencille that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the 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). Pencille 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