

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6181

JOAQUIN ALBERTO RODRIGUEZ,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director of Virginia Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Mark S. Davis, District
Judge. (2:12-cv-00280-MSD-DEM)

Submitted: May 8, 2013

Decided: June 6, 2013

Before MOTZ, KING, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joaquin Alberto Rodriguez, Appellant Pro Se. James Milburn
Isaacs, Jr., OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA,
Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joaquin Alberto Rodriguez 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.A. § 636(b)(1)(B) (West 2006 & Supp. 2012). The magistrate judge recommended that relief be denied and advised Rodriguez that failure to file timely objections to the findings and recommendations set forth in the report would waive appellate review of a district court order based upon such findings and recommendations.

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). Rodriguez has waived appellate review by failing to file objections in the district court.* Accordingly, we deny a

* We have not construed Rodriguez's notice of appeal from the magistrate judge's report and recommendation filed in this Court as objections, because he did not address the magistrate judge's findings and recommendations or identify any issues for further review in the district court, and he does not challenge the district court's finding that he failed to file objections.

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 this Court and argument would not aid the decisional process.

DISMISSED