

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7161

HENRY GREEN,

Petitioner - Appellant,

v.

CECILIA REYNOLDS, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Richard M. Gergel, District Judge. (5:15-cv-04867-RMG)

Submitted: November 22, 2016

Decided: November 28, 2016

Before DIAZ and THACKER, Circuit Judges, and DAVIS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Henry Green, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, William Edgar Salter, III, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Henry Green seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2012) petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2012). The magistrate judge recommended that relief be denied and advised Green 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). Green has waived appellate review by failing to timely file objections after receiving proper notice. Moreover, the district court's subsequent consideration of the objections "cannot cure the failure to properly and timely object." Massey v. Ojaniit, 759 F.3d 343, 352 (4th Cir. 2014). 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 this court and argument would not aid the decisional process.

DISMISSED