

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-6441**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

BONITA JONES LOWRY,

Defendant - Appellant.

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**No. 96-6442**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JONATHAN LOWRY,

Defendant - Appellant.

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Appeals from the United States District Court for the Eastern District of North Carolina, at Fayetteville. Malcolm J. Howard, District Judge. (CR-89-36, CA-93-50-3-H, CA-93-23-3-H)

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Submitted: September 5, 1996

Decided: September 17, 1996

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Before WIDENER and WILKINS, Circuit Judges, and PHILLIPS, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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John Britton Russell, Jr., SHUFORD, RUBIN & GIBNEY, Richmond,  
Virginia; David Eason Boone, Raymond Archie Carpenter, Jr., BOONE,  
BEALE, CARPENTER & COSBY, Richmond, Virginia, for Appellants.  
Barbara Dickerson Kocher, OFFICE OF THE UNITED STATES ATTORNEY,  
Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Appellants appeal the district court's order dismissing their motion filed under 28 U.S.C. § 2255 (1988), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. Appellants' cases were referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1988). The magistrate judge recommended that relief be denied and advised Appellants 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, Appellants failed to timely object to the magistrate judge's recommendation.

The timely filing of 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 that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). See generally Thomas v. Arn, 474 U.S. 140 (1985). Appellants have waived appellate review by failing to file objections after receiving proper notice. Accordingly, we 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