

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 96-7278

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BRYAN ERIC GRAY,

Petitioner - Appellant,

versus

ATTORNEY GENERAL OF NORTH CAROLINA; JACK  
TURLINGTON; FRANKLIN FREEMAN,

Respondents - Appellees.

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Appeal from the United States District Court for the Middle Dis-  
trict of North Carolina, at Salisbury. James A. Beaty, Jr., Dis-  
trict Judge. (CA-95-904)

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Submitted: March 13, 1997

Decided: March 19, 1997

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Before HALL, ERVIN, and WILKINS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Bryan Eric Gray, Appellant Pro Se. Clarence Joe DelForge, III,  
OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North  
Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Bryan Gray seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (1994), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. Gray's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied and advised Gray 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, Gray failed to 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). Gray has waived appellate review by failing to file objections after receiving proper notice. We accordingly deny a certificate of appealability and dismiss the appeal. Gray's motion for appointment of counsel is denied. 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