

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7373

DEREK HALE,

Petitioner - Appellant,

versus

EARL BESHEARS; ATTORNEY GENERAL OF THE STATE
OF MARYLAND,

Respondents - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Deborah K. Chasanow, District Judge. (CA-96-2952-DKC)

Submitted: December 11, 1997

Decided: December 31, 1997

Before HALL and WILLIAMS, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Derek Hale, Appellant Pro Se. John Joseph Curran, Jr., Attorney General, David Jonathan Taube, Assistant Attorney General, Ann Norman Bosse, OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1997). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error.

The magistrate judge recommended that relief be denied and advised Appellant that the failure to file timely objections to the recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to object to the magistrate judge's finding and recommendations and instead simply asserted that the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), Pub. L. No. 104-132, 110 Stat. 1214, was inapplicable and that the requirement that Appellant assert the same claim in his petition that he presented in state court is too burdensome on him. Accordingly, the district court was not required to conduct a de novo review of the record. See Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

The timely filing of specific objections to a magistrate judge's findings and recommendations 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. See Thomas v. Arn, 474 U.S. 140 (1985); see also Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Appellant has waived appellate review by failing to file specific objections

after receiving proper notice. We accordingly 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