

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-7159**

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DAVID HARRELL,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director of the Virginia  
Department of Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, Senior District Judge. (CA-98-872-2)

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Submitted: December 16, 1999

Decided: December 21, 1999

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Before MURNAGHAN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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David Harrell, Appellant Pro Se. Rick Randall Linker, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

David Harrell seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1999). Appellant'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 Appellant 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, Appellant 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. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Appellant has waived appellate review by failing to file 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