

UNPUBLISHED

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

THELBERT NOLAN "PETE" FUTRELL,  
*Petitioner-Appellant,*

v.

WILLIAM D. CATOE, Director, South  
Carolina Department of Corrections;  
CHARLES M. CONDON, Attorney  
General of the State of South  
Carolina,  
*Respondents-Appellees.*

No. 01-6661

Appeal from the United States District Court  
for the District of South Carolina, at Florence.  
Patrick Michael Duffy, District Judge.  
(CA-00-1082-23-4)

Submitted: October 24, 2001

Decided: December 17, 2001

Before LUTTIG and MOTZ, Circuit Judges, and  
HAMILTON, Senior Circuit Judge.

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Dismissed in part and vacated and remanded in part by unpublished  
per curiam opinion.

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**COUNSEL**

Thelbert Nolan Futrell, Appellant Pro Se. Donald John Zelenka, Chief  
Deputy Attorney General, Jeffrey Alan Jacobs, OFFICE OF THE  
ATTORNEY GENERAL, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

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### OPINION

#### PER CURIAM:

Thelbert Nolan "Pete" Futrell appeals from the district court's order adopting the magistrate judge's recommendation and denying relief on his 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001) petition. For the following reasons, we deny a certificate of appealability and dismiss the appeal in part, and grant a certificate of appealability and vacate the district court's order in part, and remand for further proceedings.

Futrell asserted in his § 2254 petition that he was denied effective assistance of counsel in that: (1) trial counsel failed to object to the declaration of a mistrial, thereby subjecting him to double jeopardy (Claim 1); (2) trial counsel failed to object to the jurisdiction of the trial court (Claim 2); and (3) trial counsel failed to protect him from double jeopardy by not objecting to the duplicitous indictment (Claim 3). The district court conducted de novo review of the magistrate judge's denial of relief on Claim 1, but declined to conduct de novo review of Claims 2 and 3, finding that Futrell failed to make specific objections to the magistrate judge's report and recommendation concerning those claims.

Under 28 U.S.C. § 636(b)(1) (2000), the district court is obligated to review de novo those portions of the magistrate judge's report to which specific objections are filed. *United States v. Schronce*, 727 F.2d 91, 93 (4th Cir. 1984). Although Futrell's objections are not artfully drawn, we conclude that they were sufficiently specific to warrant a de novo review of the entire magistrate judge's report and recommendation. We have reviewed the record and the district court's opinion conducting a de novo review on Claim 1 and accepting the magistrate judge's recommendation to deny relief on that claim and find no reversible error. The district court did not conduct a de novo review of the magistrate judge's report and recommendation concern-

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ing Claims 2 and 3. Consequently, although we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court as to Claim 1, *Futrell v. Catoe*, No. CA-00-1082-23-4 (D.S.C. Mar. 30, 2001), we grant a certificate of appealability as to Claims 2 and 3, vacate the district court's order denying relief on these claims, and remand for further proceedings consistent with this opinion. 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 IN PART, VACATED AND REMANDED IN PART*