

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6690

SHAWNTAY LAMONT EVANS,

Petitioner - Appellant,

versus

RONALD ANGELONE, Director Virginia Department
of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern Dis-
trict of Virginia, at Norfolk. Raymond A. Jackson, District Judge.
(CA-00-777-2)

Submitted: September 20, 2001 Decided: September 26, 2001

Before LUTTIG, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Shawntay Lamont Evans, Appellant Pro Se. Richard Bain Smith,
Assistant Attorney General, Richmond, Virginia, For Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Shawntay Lamont Evans seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001). Evans'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 Evans 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, Evans 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). Evans has waived appellate review by failing to file objections after receiving proper notice. We accordingly deny a certificate of appealability, deny leave to proceed in forma pauperis, 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