

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7139

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LEONARD SHELTON MCCULLOUGH, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Winston-Salem. Frank W. Bullock, Jr., District Judge. (CR-96-195, CA-00-1040-1)

Submitted: November 29, 2001

Decided: December 6, 2001

Before WIDENER, NIEMEYER, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Leonard Shelton McCullough, Jr., Appellant Pro Se. Paul Alexander Weinman, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Leonard Shelton McCullough, Jr., seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). McCullough'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 McCullough 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, McCullough 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 also Thomas v. Arn, 474 U.S. 140 (1985). McCullough has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we 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