

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-7855**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

THOMAS JERECKI, a/k/a Tommy Jerecki, a/k/a  
Thomas Robert Jerecki,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Parkersburg. Charles H. Haden II, Chief District Judge. (CR-98-111, CA-00-1092-6)

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Submitted: February 14, 2002

Decided: February 26, 2002

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Before WIDENER, LUTTIG, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Thomas Jerecki, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Thomas Jerecki seeks to appeal the district court's judgment order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). Jerecki'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 Jerecki 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, Jerecki failed to object to the magistrate judge's recommendation. The district court adopted the magistrate judge's findings and 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). Jerecki has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny Jerecki's motion for leave to proceed in forma pauperis. We also 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