

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6377

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

BOOKER COUNCIL THOMAS GATTIS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle
District of North Carolina, at Durham. James A. Beaty, Jr.,
District Judge. (CR-99-102, CA-00-1135-1)

Submitted: July 25, 2002

Decided: July 31, 2002

Before WILKINS, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Booker Council Thomas Gattis, Appellant Pro Se. Angela Hewlett
Miller, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Booker Council Thomas Gattis seeks to appeal the district court's order dismissing his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 2002). Gattis' 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 Gattis 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, Gattis 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). Gattis 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