

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6192

KEVIN DEVON HOGUE,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director of the Virginia
Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Rebecca Beach Smith, District
Judge. (CA-02-113-2)

Submitted: April 17, 2003

Decided: April 23, 2003

Before WIDENER, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kevin Devon Hogue, Appellant Pro Se. Amy L. Marshall, OFFICE OF
THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kevin Devon Hogue seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (2000). The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that relief be denied and advised Hogue 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, Hogue failed to object to the portion of the magistrate judge's report recommending dismissal of Hogue's claims on the merits.

The timely filing of specific 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). Hogue has waived appellate review by failing to object to the magistrate judge's recommendation to dismiss his petition on the merits. 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