

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6407

DARYL B. STEWART,

Petitioner - Appellant,

v.

JON OZMINT, Director SCDC; WARDEN,

Respondents - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Beaufort. Henry M. Herlong, Jr., Senior District Judge. (9:09-cv-00136-HMH)

Submitted: June 24, 2010

Decided: July 1, 2010

Before DUNCAN, AGEE, and DAVIS, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Daryl B. Stewart, Appellant Pro Se. Donald John Zelenka, Deputy Assistant Attorney General, Samuel Creighton Waters, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daryl B. Stewart seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2006 & Supp. 2010). The magistrate judge recommended that relief be denied and advised Stewart that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

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 of the consequences of noncompliance. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Stewart has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny a certificate of appealability and dismiss the appeal in part. We also affirm the district court's order denying Stewart's request for more time to file objections.*

* Stewart did not request an extension until after judgment was entered against him and almost a month after the magistrate judge's report.

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 IN PART;
AFFIRMED IN PART