

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6282

KENNETH PRICE-EL,

Petitioner - Appellant,

versus

STATE OF MARYLAND,

Respondent - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Andre M. Davis, District Judge. (CA-94-660)

Submitted: July 23, 1996

Decided: July 31, 1996

Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kenneth Price-El, Appellant Pro Se. Diane Elizabeth Keller, Assistant Attorney General, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant seeks to appeal the district court's order dismissing his habeas petition, 28 U.S.C. § 2254 (1988), as amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1217. Appellant's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B)(1988). The magistrate judge recommended that relief be denied and advised Appellant 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, Appellant failed to timely 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 generally Thomas v. Arn, 474 U.S. 140 (1985). Appellant has waived appellate review by failing to file timely objections after receiving proper notice. We accordingly deny a certificate of appealability to appeal; to the extent that a certificate of appealability is required, we deny such a certificate. We dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

* We note that the district court stated that no objections were filed. Although Appellant filed objections, they were untimely and the district court was not obligated to review them.

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED