

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7078

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ALBERT HARRIS, a/k/a Junebug,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Charles H. Haden II, Chief District Judge. (CR-95-10, CA-96-2135)

Submitted: October 21, 1997

Decided: February 24, 1998

Before HALL, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Albert Harris, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, 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Unpublished opinions are not binding precedent in this circuit.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 denying his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997). Appellant's case was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied and advised Appellant that the failure to file timely, specific objections to the recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to so object to the magistrate judge's finding and recommendations and instead simply reasserted one of the claims raised in the motion.

The timely filing of specific objections to a magistrate judge's findings and recommendations 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 Thomas v. Arn, 474 U.S. 140 (1985); see also Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Appellant has waived appellate review by failing to file specific objections after receiving proper notice. See Howard v. Secretary of Health and Human Servs., 932 F.2d 505, 507-09 (6th Cir. 1991); Lockert v. Faulkner, 843 F.2d 1015, 1019 (7th Cir. 1988). We accordingly deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are ade-

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

DISMISSED