

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-7005**

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DONALD HAROLD COWART,

Petitioner - Appellant,

versus

STATE OF SOUTH CAROLINA; CHARLES M. CONDON,  
Attorney General,

Respondents - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. Cameron McGowan Currie, District Judge. (CA-98-587-2-22AJ)

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Submitted: October 8, 1998

Decided: October 27, 1998

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Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Donald Harold Cowart, Appellant Pro Se. Donald John Zelenka, Chief Deputy Attorney General, Columbia, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Donald Harold Cowart seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). Cowart's 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 Cowart 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, Cowart 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 generally Thomas v. Arn, 474 U.S. 140 (1985). Cowart 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