

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6127

JOSE LOPEZ-DIAZ,

Petitioner - Appellant,

v.

H. JOYNER, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Aiken.
J. Michelle Childs, District Judge. (1:18-cv-03471-JMC)

Submitted: September 10, 2020

Decided: September 15, 2020

Before WILKINSON and AGEE, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed as modified by unpublished per curiam opinion.

Jose Lopez-Diaz, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jose Lopez-Diaz appeals the district court's order dismissing his 28 U.S.C. § 2241 petition for lack of jurisdiction. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1). The magistrate judge recommended that the case be dismissed and advised Lopez-Diaz that failure to file timely, specific 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. *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017); *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140, 154-55 (1985). Although Lopez-Diaz received proper notice and filed timely objections to the magistrate judge's recommendation, he has waived appellate review because the objections were not specific to the particularized legal recommendations made by the magistrate judge. *See Martin*, 858 F.3d at 245 (holding that, "to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection" (internal quotation marks omitted)). Accordingly, we affirm the judgment of the district court. However, we modify the dismissal order, *Lopez-Diaz v. Joyner*, No. 1:18-cv-03471-JMC (D.S.C. Jan. 13, 2020), to reflect dismissal without prejudice for lack of jurisdiction, and affirm the dismissal as modified, 28 U.S.C. § 2106.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED AS MODIFIED