

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7249

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK ALLEN ROLLYSON,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. John Preston Bailey, Chief District Judge. (3:07-cr-00098-JPB-JES-1; 3:08-cv-00143-JPB-JES)

Submitted: October 29, 2009

Decided: November 10, 2009

Before KING and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Mark Allen Rollyson, Appellant Pro Se. Thomas Oliver Mucklow, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mark Allen Rollyson seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2009) motion. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2006). The magistrate judge recommended that relief be denied and advised Rollyson that the failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Rollyson failed to specifically object to the magistrate judge's 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, 150 (1985). Rollyson has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Rollyson's motion to appoint counsel.

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