

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6780

MASON JOHNSON,

Petitioner - Appellant,

v.

WARDEN MCFADDEN,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Orangeburg. J. Michelle Childs, District Judge. (5:17-cv-01026-JMC)

Submitted: September 28, 2017

Decided: October 3, 2017

Before WILKINSON, MOTZ, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Mason Johnson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mason Johnson seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2012) petition as an unauthorized, successive petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2012). The magistrate judge recommended that the petition be dismissed on this basis and advised Johnson 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. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140 (1985). While Johnson objected to the magistrate judge's failure to consider his actual innocence claim or to evaluate evidence that Johnson contended was wrongfully excluded from trial, his objections did not address the magistrate judge's proposed conclusion that this was an unauthorized, successive § 2254 petition. We thus conclude that Johnson has waived appellate review of the district court's order because, after receiving proper notice, he filed objections that were not responsive to the magistrate judge's dispositive recommendation. *See United States v. Midgette*, 478 F.3d 616, 621 (4th Cir. 2007) (holding that a litigant "waives a right to appellate review of particular issues by failing to file timely objections specifically directed to those issues").

Accordingly, we deny a certificate of appealability, deny Johnson's motion for appointment of counsel, and dismiss the appeal. 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.

DISMISSED