

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1856

MELANIE KELLEY,

Plaintiff - Appellant,

v.

CITY OF HARTSVILLE; CITY OF DARLINGTON,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, District Judge. (4:07-cv-03682-RBH)

Submitted: October 21, 2008

Decided: October 24, 2008

Before MICHAEL, TRAXLER, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Melanie Kelley, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Melanie Kelley appeals the district court's order adopting the magistrate judge's recommendation and denying relief on her civil rights complaint and the district court's order denying her Fed. R. Civ. P. 59(e) motion.*

The district court referred Kelley's complaint to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that relief be denied and advised Kelley 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, Kelley failed to 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 (1985). Kelley has waived appellate review by failing to timely file specific

* Although Kelley did not specify whether her post-judgment "motion for reconsideration" was filed pursuant to Fed. R. Civ. P. 59(e) or 60(b), because it was filed within the ten-day limit for Rule 59(e) motions, it is treated as such. See Dove v. CODESCO, 569 F.2d 807, 809 (4th Cir. 1978).

objections after receiving proper notice. Accordingly, we affirm the district court's order dismissing without prejudice Kelley's complaint.

With regard to Kelley's Rule 59(e) motion, we find that the district court did not abuse its discretion in denying the motion. See Pacific Ins. Co. v. American Nat'l Fire Ins. Co., 148 F.3d 396, 402 (4th Cir. 1998). Accordingly, we affirm the district court's denial of Kelley's Rule 59(e) motion.

We also deny Kelly's motion for a transcript at government expense. 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.

AFFIRMED