

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6209

FRANK BOSTON,

Petitioner - Appellant,

v.

WARDEN, LEE CORRECTIONAL INSTITUTION; SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Beaufort. Patrick Michael Duffy, District
Judge. (9:07-cv-01861-PMD)

Submitted: June 26, 2008

Decided: July 1, 2008

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

Dismissed by unpublished per curiam opinion.

Frank Boston, Appellant Pro Se. Erin Mary Farrell, John Eric
Kaufmann, MCKAY, CAUTHEN, SETTANA & STUBLEY, PA, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frank Boston, a state prisoner, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2241 (2000) petition. Boston's case was referred 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 Boston 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, Boston failed to timely 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. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). See generally Thomas v. Arn, 474 U.S. 140 (1985). Boston has waived appellate review by failing to file timely 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