

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6577

WILLIAM CLINE,

Petitioner - Appellant,

v.

DAVID BALLARD, Warden, Mount Olive Correctional Complex,

Respondent - Appellee,

and

THOMAS MCBRIDE, Warden, Mount Olive Correctional Complex;
HOWARD PAINTER, Warden, Mt. Olive Correctional Complex,

Respondents.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. John T. Copenhaver, Jr., District Judge. (2:01-cv-00295)

Submitted: June 26, 2008

Decided: July 3, 2008

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

Dismissed by unpublished per curiam opinion.

William Cline, Appellant Pro Se. Dawn Ellen Warfield, Deputy Attorney General, Robert David Goldberg, Allen Hayes Loughry, II, Darrell V. McGraw, Jr., OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

William Cline seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition. The district court referred this case 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 Cline 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, Cline 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). Cline has waived appellate review by failing to timely file specific objections to the magistrate judge's report after receiving proper notice.* Accordingly, we deny a certificate of appealability and dismiss the appeal.

*Contrary to Cline's assertion on appeal, his objections to the Respondent's motion for summary judgment cannot serve as objections to the magistrate judge's subsequent report and recommendation.

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