

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7027

CORREY SHAVANTE J. DAVID,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Director, Virginia Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:07-cv-00396-RAJ-JEB)

Submitted: October 21, 2008

Decided: October 28, 2008

Before MICHAEL, TRAXLER, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Correy Shavante J. David, Appellant Pro Se. James Robert Bryden, II, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Correy Shavante J. David 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 David 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, David 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). David has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we deny a certificate of appealability, deny David's application to proceed in forma pauperis, 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