

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8213

ROBERT CHRISTOPHER SHIRLEY,

Petitioner - Appellant,

v.

COLLIE RUSHTON, Warden of McCormick Correctional Institute,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Henry F. Floyd, District Judge. (0:07-cv-02996-HFF)

Submitted: August 20, 2009

Decided: August 24, 2009

Before WILKINSON and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Robert Christopher Shirley, Appellant Pro Se. Donald John Zelenka, Deputy Assistant Attorney General, Samuel Creighton Waters, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Christopher Shirley seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2006). The magistrate judge recommended that relief be denied and advised Shirley 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, Shirley 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). Shirley has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny a certificate of appealability, deny leave 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