

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-8378**

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MYRON KELLEY,

Plaintiff -Appellant,

v.

J. MARCUS WHITLARK; PAUL C. BALLOU, all in,

Defendants - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Columbia. Henry M. Herlong, Jr., District Judge. (3:08-cv-02801-HMH)

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Submitted: February 19, 2009

Decided: February 27, 2009

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Before WILKINSON, DUNCAN, and AGEE, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Myron Kelley, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Myron Kelley appeals the district court's order denying relief on his 42 U.S.C. § 1983 (2000) complaint. 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 Kelley that failure to file timely and specific objections to this recommendation would waive appellate review of the district court's order based upon the recommendation. Despite this warning, Kelley failed to file specific objections 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 objections after receiving proper notice. Accordingly, we affirm the judgment of the district court.

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