

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6524

STANFORD T. ALLEN, JR.,

Petitioner - Appellant,

v.

DAVID BALLARD, Warden,

Respondent - Appellee,

and

THOMAS L. MCBRIDE, Warden,

Respondent.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Senior District Judge. (1:06-cv-00597)

Submitted: September 24, 2009

Decided: December 8, 2009

Before NIEMEYER, MICHAEL, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Stanford T. Allen, Jr., Appellant Pro Se. Robert David Goldberg, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stanford T. Allen, Jr., appeals the district court's order granting summary judgment in favor of the Respondent 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 Allen 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, Allen failed to object specifically 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). Allen has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we deny leave to proceed in forma pauperis, deny Allen's motion for 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