

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7415

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL BANKS,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. Frederick P. Stamp, Jr., Senior District Judge. (5:08-cv-00162-FPS-JSK, 5:05-cr-0030-FPS-JSK-1)

Submitted: July 13, 2011

Decided: July 21, 2011

Before WILKINSON, NIEMEYER, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Daniel Banks, Appellant Pro Se. David J. Perri, Assistant United States Attorney, Wheeling, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Banks seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2011) motion. The district court referred this case to a magistrate judge pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2006 & Supp. 2011). The magistrate judge recommended that relief be denied and advised Banks that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the 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). Banks has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny 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