

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6222

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MAURILIO PRIETO-RUBI,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Norman K. Moon, Senior District Judge. (3:06-cr-00017-nkm-1; 3:09-cv-80186-nkm-mfu)

Submitted: May 26, 2011

Decided: June 1, 2011

Before KING, SHEDD, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Maurilio Prieto-Rubi, Appellant Pro Se. Ronald Mitchell Huber, Assistant United States Attorney, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Maurilio Prieto-Rubi seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2010) 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. 2010). The magistrate judge recommended that relief be denied and advised Prieto-Rubi that the 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). Prieto-Rubi has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny Prieto-Rubi'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