

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6890

JEFFERSON ELIE,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director of the Virginia Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Jerome B. Friedman, Senior
District Judge. (2:10-cv-00222-JBF-TEM)

Submitted: October 4, 2011

Decided: October 25, 2011

Before DUNCAN, WYNN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jefferson Elie, Appellant Pro Se. Leah A. Darron, OFFICE OF THE
ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jefferson Elie seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2006) petition. 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 Elie 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). Elie 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

* In any event, the district court's conclusion that Elie's petition was untimely is correct, and thus independently supports dismissal of this appeal.

before the court and argument would not aid the decisional process.

DISMISSED