

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-6777**

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DANIEL EUGENE SHERMAN,

Petitioner - Appellant,

v.

MICHAEL MCCALL, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Joseph F. Anderson, Jr., District Judge. (5:10-cv-02571-JFA)

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Submitted: August 22, 2012

Decided: August 27, 2012

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Before WILKINSON, GREGORY, and DIAZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Daniel Eugene Sherman, Appellant Pro Se. Donald John Zelenka, Deputy Assistant Attorney General, Brendan McDonald, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Eugene Sherman seeks to appeal the district court's order denying relief 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.A. § 636(b)(1)(B) (West 2006 & Supp. 2012). The magistrate judge recommended that relief be denied and advised Sherman that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. The court granted Sherman one extension of time to file objections, but no objections were forthcoming.

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). Sherman has waived appellate review by failing to file objections after receiving proper notice. Further, we find no merit in Sherman's motion asking this court to excuse his failure to object to the magistrate judge's report. Accordingly, we deny that motion and 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