

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6849

GEORGE KENNEDY,

Petitioner - Appellant,

v.

BROAD RIVER CORRECTION INST, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Florence. J. Michelle Childs, District Judge. (4:11-cv-02294-JMC)

Submitted: August 22, 2012

Decided: August 27, 2012

Before WILKINSON, GREGORY, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

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

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

George Kennedy seeks to appeal the district court's order dismissing 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 the petition be dismissed for failure to prosecute and advised Kennedy 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). Kennedy 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