

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7534

ROBERT WAYNE SMITH,

Petitioner - Appellant,

v.

ROY COOPER,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:09-cv-00832-NCT-LPA)

Submitted: January 22, 2013

Decided: January 24, 2013

Before WILKINSON, NIEMEYER, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Wayne Smith, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Wayne Smith seeks to appeal the district court's order dismissing as successive 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 Smith 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). Smith has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny Smith's motions for a certificate of appealability and to file an amicus curiae brief and dismiss the appeal.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

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

DISMISSED