

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6816

ROBERT L. MITCHELL, a/k/a Robert Lee Mitchell, a/k/a Robert Mitchell,

Petitioner - Appellant,

v.

WARDEN OF BROAD RIVER CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

BILL BYARS, Director SC Dept of Corrections,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Florence. Cameron McGowan Currie, District Judge. (4:13-cv-00470-CMC)

Submitted: July 25, 2013

Decided: July 30, 2013

Before GREGORY, DAVIS, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert L. Mitchell, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert L. Mitchell 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. 2013). The magistrate judge recommended that relief be denied and advised Mitchell that failure to file timely and specific 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. Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315-16 (4th Cir. 2005); Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). Mitchell has waived appellate review of the district court's order by failing to file objections to the magistrate judge's recommendation 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 this court and argument would not aid the decisional process.

DISMISSED