

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 14-1243**

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JACOB BAKER,

Plaintiff - Appellant,

v.

COMMISSIONER SOCIAL SECURITY ADMINISTRATION,

Defendant - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Anderson. J. Michelle Childs, District Judge. (8:14-cv-00113-JMC)

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Submitted: July 11, 2014

Decided: July 15, 2014

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Before WILKINSON, KING, and AGEE, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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Jacob Baker, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jacob Baker appeals from the district court's order accepting the recommendation of the magistrate judge and dismissing his civil action. Two days after the district court issued its dismissal order, Baker filed a letter with the district court asserting that he did not timely receive the magistrate judge's report and recommendation and, thus, he did not have the opportunity to file objections. Before the district court acted upon Baker's filing, Baker filed correspondence with this court, which was construed as a notice of appeal.

The timely filing of objections is necessary to preserve appellate review of a district court's order adopting the recommendation. See Wright v. Collins, 766 F.2d 841 (4th Cir. 1985). If Baker did not timely receive the report and recommendation, he was thereby prevented from obtaining de novo review of the recommendation by an Article III judge. See Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982).

In light of Baker's assertion that he did not timely receive the report and recommendation, we remand the case to the district court so it may construe the February 21, 2014 correspondence as a Fed. R. Civ. P. 59(e) motion for reconsideration of the dismissal order. We express no opinion as to whether reconsideration is warranted. 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.

REMANDED