

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7606

CLARENCE AUSTIN HARRISON,

Petitioner - Appellant,

v.

TIM RILEY,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Bruce H. Hendricks, District Judge. (2:14-cv-03801-BHH)

Submitted: March 17, 2016

Decided: April 8, 2016

Before THACKER and HARRIS, Circuit Judges, and DAVIS, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Clarence Austin Harrison, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, William Edgar Salter, III, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clarence Austin Harrison appeals the district court's order denying relief on his 28 U.S.C. § 2254 (2012) petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2012). The magistrate judge recommended that Harrison's § 2254 petition be denied. The magistrate judge advised Harrison that failure to file timely, specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

On September 11, 2015, the district court determined that no objections had been filed and, after reviewing the matter, adopted the magistrate judge's recommendation and denied Harrison's § 2254 petition. The record discloses, however, that Harrison timely filed objections to the magistrate judge's report.*

Accordingly, we grant leave to proceed in forma pauperis, vacate the district court's order, and remand for consideration of Harrison's timely objections. We dispense with oral argument because the facts and legal contentions are adequately presented

* The due date for filing objections to the magistrate judge's report and recommendation was September 7, 2015, a federal holiday. Harrison's objections were postmarked at the prison facility on September 8, 2015, and therefore deemed timely filed. See Houston v. Lack, 487 U.S. 266 (1988) (deeming document filed when given to prison officials for mailing); Fed. R. Civ. P. 6(a) (excluding intermediate Saturdays, Sundays, and legal holidays from computation of time).

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

VACATED AND REMANDED