

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-6931

ELEVATION A. CLARK,

Petitioner - Appellant,

v.

HAROLD W. CLARKE,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda L. Wright Allen, District Judge. (2:17-cv-00366-AWA-RJK)

Submitted: November 29, 2018

Decided: December 4, 2018

Before DUNCAN and KEENAN, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Elevation A. Clark, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elevation A. Clark seeks to appeal the district court's order granting Respondent's motion to dismiss 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 granting Respondent's motion to dismiss and advised Clark 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). Clark 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 this court and argument would not aid the decisional process.

DISMISSED

* Although the district court received Clark's notice of appeal outside the 30-day appeal period, Fed. R. App. P. 4(a)(1)(A), we assume, for purposes of this appeal, that the date appearing on the notice was the earliest date Clark could have delivered it to prison officials for mailing, Fed. R. App. P. 4(c); *Houston v. Lack*, 487 U.S. 266, 276 (1988). The district court entered judgment on May 21, 2018, and Clark dated his notice of appeal June 20, 2018. Accordingly, we conclude that the appeal is timely.