

UNPUBLISHED

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

No. 18-7031

JACKIE EMMITT MOOREHEAD,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:17-hc-02086-D)

Submitted: December 20, 2018

Decided: January 4, 2019

Before DUNCAN and AGEE, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Jackie Emmitt Moorehead, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jackie Emmitt Moorehead seeks to appeal the district court's order construing his 28 U.S.C. § 2241 (2012) motion as a successive and unauthorized 28 U.S.C. § 2254 (2012) petition and dismissing it on that basis. 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 construing the § 2241 motion as a successive and unauthorized § 2254 petition and denying relief on that basis and advised Moorehead 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). Moorehead has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny a certificate of appealability as unnecessary, *see Harbison v. Bell*, 556 U.S 180, 183 (2009), and affirm.

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.

AFFIRMED