

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-7339

MANDREY D. DAVIS,

Plaintiff - Appellant,

v.

JIMMY HILBOURN; VICKIE HARDIE; JANE DOE; JOHN DOE; JOHN DOE,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:14-ct-03324-D)

Submitted: June 11, 2019

Decided: June 19, 2019

Before NIEMEYER, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mandrey D. Davis, Appellant Pro Se. Yvonne Bulluck Ricci, Assistant Attorney General, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mandrey D. Davis, through counsel, filed an amended 42 U.S.C. § 1983 (2012) complaint alleging that prison official, Jimmy Hilbourn, was deliberately indifferent to his serious medical needs. Hilbourn moved for summary judgment, but Davis did not file a response in opposition. The magistrate judge recommended granting the motion for summary judgment and warned that Davis would waive appellate review of the district court's order based on the recommendation if he failed to object within 14 days. Davis did not file objections within the 14-day period. When counsel discovered that he was never notified of the motion for summary judgment or the magistrate judge's report and recommendation, he moved to file a response out of time. The district court granted that motion and gave counsel until August 17, 2018, to file a response to the summary judgment motion and objections to the magistrate judge's report and recommendation. Because counsel did not file any objections by the extended deadline, the court reviewed the record for clear error, adopted the magistrate judge's recommendation, and granted Hilbourn's motion for summary judgment. Davis, now proceeding pro se, appeals that order.

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). Davis has waived appellate review by failing to file objections after receiving proper notice of

the consequences and an extension of time in which to file. Accordingly, we affirm the district court's judgment.

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