

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7607

DARRYL FRIERSON,

Petitioner - Appellant,

v.

CHARLES WILLIAMS, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at
Anderson. Bruce H. Hendricks, District Judge. (8:18-cv-02111-BHH)

Submitted: February 22, 2021

Decided: March 19, 2021

Before GREGORY, Chief Judge, and KEENAN and RICHARDSON, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Darryl Frierson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darryl Frierson seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended that relief be denied and advised Frierson that failure to file timely, specific 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. *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017); *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985); see also *Thomas v. Arn*, 474 U.S. 140, 154-55 (1985). Although Frierson received proper notice and filed timely objections to the magistrate judge's recommendation, he has waived appellate review of his ineffective assistance of counsel claim relating to counsel's failure to seek suppression of evidence because Frierson's objections were not specific to the particularized legal recommendations made by the magistrate judge. See *Martin*, 858 F.3d at 245 (holding that, "to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection" (internal quotation marks omitted)).

Frierson's appeal of the portion of the district court's order pertaining to his guilty plea claim is not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue

absent “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Frierson has not made the requisite showing for this claim.

Finally, Frierson has forfeited appellate review of his claim that counsel provided erroneous sentencing advice by failing to raise that issue in his informal brief. *See* 4th Cir. R. 34(b) (limiting appellate review to issues raised in informal brief); *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) (noting importance of Rule 34(b)).

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