

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7088

JUSTIN HILLERBY,

Petitioner - Appellant,

v.

KENNETH NELSON, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Donald C. Coggins, Jr., District Judge. (6:21-cv-03450-DCC)

Submitted: May 18, 2023

Decided: May 22, 2023

Before NIEMEYER, RICHARDSON, and RUSHING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

William Glenn Yarborough, III, WILLIAM G. YARBOROUGH III, ATTORNEY AT LAW, LLC, Greenville, South Carolina, for Appellant. Melody Jane Brown, Senior Assistant Attorney General, Julianna Battenfield, Assistant Attorney General, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Justin Hillerby 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 Hillerby 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 Hillerby received proper notice and filed timely objections to the magistrate judge's recommendation, he has waived appellate review because the 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)). Specifically, Hillerby failed to substantively challenge the magistrate judge's determination that Hillerby was not entitled to § 2254 relief based on the state appeals court's application of relevant federal law in affirming the denial of state postconviction relief.

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