

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7195

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WAYNE EDWARD SPINKS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Thomas David Schroeder, District Judge. (1:04-cr-00426-TDS-1; 1:07-cv-00720-RAE)

Submitted: March 17, 2009

Decided: March 20, 2009

Before TRAXLER, KING, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Wayne Edward Spinks, Appellant Pro Se. Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wayne Edward Spinks seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2008) motion. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2006). The magistrate judge recommended that relief be denied and advised Spinks that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Spinks failed to object to the magistrate judge's 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). Spinks has waived appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we deny a certificate of appealability and dismiss the appeal. We

* We note that Spinks admits that he received the magistrate judge's recommendation within the ten-day period for filing objections, yet he failed to file objections or a motion for extension of time.

dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED