

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-6971**

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SAM FRANKLIN DAVIS, III,

Plaintiff - Appellant,

v.

STATE OF NORTH CAROLINA; ROBERT ERWING, Attorney for  
Plaintiff/Defendant; WEINMAN, Prosecutor; CANDI RENEE COOKER,  
Victim,

Defendants - Appellees.

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Appeal from the United States District Court for the Middle  
District of North Carolina, at Durham. Thomas David Schroeder,  
District Judge. (1:08-cv-00177-TDS-PTS)

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Submitted: September 16, 2008

Decided: September 23, 2008

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Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Sam Franklin Davis, III, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sam Franklin Davis, III, appeals the district court's order dismissing his 42 U.S.C. § 1983 (2000) complaint under 28 U.S.C. § 1915(e)(2)(B) (2000). The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that relief be denied and advised Davis 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, Davis 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). Davis forfeited appellate review by failing to timely file specific objections after receiving proper notice. Accordingly, we affirm the judgment of the district court.

We deny the motion to appoint counsel and 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.

AFFIRMED