

Appendix

Application for writ of Habeas Corpus

ORDER authorizing service of process by Clerk

REPORT AND RECOMMENDATION

ORDER adopting the magistrate judge's [13]

ORDER the Court grants leave to proceed in Forma Pauperis

JUDGMENT A Certificate of appealability is denied and the appeal is dismissed.

Temporary stay of Mandate

ORDER denies the petition for rehearing and rehearing en banc.

MANDATE takes effect January 20, 2023

UNPUBLISHED No. 22-6960

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 22-6960

JOHN FOSTER NORRIS,

Petitioner - Appellant,

v.

WARDEN, EVANS CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

SOUTH CAROLINA, STATE OF; DEPARTMENT OF CORR.

Respondents.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Henry M. Herlong, Jr., Senior District Judge. (0:22-cv-00736-HMH)

Submitted: January 17, 2023

Decided: January 20, 2023

Before KING and THACKER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

John Foster Norris, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Foster Norris 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 Norris 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 Norris 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)). Accordingly, we deny a certificate of appealability and dismiss the appeal.

FILED: January 20, 2023

UNITED STATES COURT OF APPEALS
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No. 22-6960
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J U D G M E N T

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNITED STATES COURT OF APPEALS
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O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge King, Judge Thacker, and
Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

John Foster Norris,)	
)	C.A. No. 0:22-736-HMH-PJG
Petitioner,)	
)	
vs.)	OPINION & ORDER
)	
Warden, Evans Correctional Institution,)	
)	
Respondent.)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Paige J. Gossett made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ Petitioner John Foster Norris (“Norris”) is a pro se state prisoner seeking habeas corpus relief pursuant to 28 U.S.C. § 2254. In her Report and Recommendation filed on April 19, 2022, Magistrate Judge Gossett recommends dismissing the Petition without prejudice and without requiring the Respondent to file a return. (R&R, generally, ECF No. 13.)

Norris timely filed objections to the Report and Recommendation.² (Obj., generally, ECF No. 15.) Objections to the Report and Recommendation must be specific. Failure to file

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

² Houston v. Lack, 487 U.S. 266 (1988).

specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Norris's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Norris's objections are therefore without merit. Accordingly, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Gossett's Report and Recommendation and incorporates it herein.

It is therefore

ORDERED that the Petition is dismissed without prejudice and without requiring the Respondent to file a return. It is further

ORDERED that a certificate of appealability is denied because Norris has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
August 11, 2022

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.