

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

DAVID LEE,	:	
	:	
Petitioner,	:	
	:	
v.	:	CIVIL ACTION NO.
	:	2:11-CV-00014-RWS
WARDEN STACEY N. STONE,	:	
North Georgia Detention Center,	:	
DIRECTOR JOHN MORTON,	:	
U. S. Immigration and Customs	:	
Enforcement, DIRECTOR	:	
FELICIA SKINNER, Atlanta Field	:	
Office, Immigration and Customs	:	
Enforcement,	:	
	:	
Respondents.	:	

ORDER

This case is before the Court for consideration of the Final Report and Recommendation [14] of Magistrate Judge Susan S. Cole. Petitioner filed Objections [15], and Respondents filed a Reply [16] thereto. After reviewing the record, the Court enters the following Order.

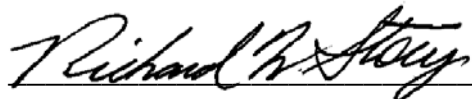
Petitioner attached to his Objections a copy of an August 19, 2011 Board of Immigrations Appeal decision remanding to the Immigration Judge for further findings after determining that the record of conviction of Petitioner did not appear to be sufficient to support a finding that the victim of the offense of

conviction was a minor. Petitioner asserts that the decision of the Board of Immigration Appeals confirms that he is not an aggravated felon subject to detention and removal. Therefore, he urges the Court to grant habeas corpus relief.

In its Reply, Respondents assert that the decision of the Board of Immigration Appeals is further evidence that Petitioner has not yet exhausted his administrative remedies. Accordingly, Respondents argue that the Report and Recommendation is correct in concluding that this Court lacks jurisdiction to consider the Petition. The Court agrees.

After reviewing the entire record, the Report and Recommendation is received with approval and adopted as the Opinion and Order of this Court. Accordingly, Petitioner's Emergency Motion for Hearing and Adjudication [4] is **DENIED**. Respondent Stone's Motion to Dismiss [8] and Respondents Felicia Skinner and John Morton's Motion to Dismiss [10] are **GRANTED**, and this action is hereby **DISMISSED**.

SO ORDERED, this 28th day of September, 2011.



RICHARD W. STORY
UNITED STATES DISTRICT JUDGE