

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1971

EMILE M. SAINT PATRICK HIGGINS,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A28-629-666)

Submitted: March 29, 2006

Decided: April 17, 2006

Before LUTTIG, KING, and GREGORY, Circuit Judges.

Petition dismissed by unpublished per curiam opinion.

Emile M. Saint Patrick Higgins, Petitioner Pro Se. Michele Yvette Francis Sarko, Carol Federighi, M. Jocelyn Lopez Wright, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

In December 2004, Emile M. Saint Patrick Higgins filed an application for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (2000) in the United States District Court for the Southern District of New York. After the May 11, 2005 effective date of the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231, the district court transferred the case to this court for treatment as a petition for review in accordance with § 106(c) of the Act.

The federal immigration statutes clearly state that “[a] court may review a final order of removal only if . . . the alien has exhausted all administrative remedies available to the alien as of right.” 8 U.S.C. § 1252(d)(1) (2000). When Congress has statutorily mandated exhaustion, that requirement must be enforced. Kurfees v. INS, 275 F.3d 332, 336 (4th Cir. 2001). Moreover, we have held that we lack jurisdiction to consider an argument not made before the Board of Immigration Appeals. Asika v. Ashcroft, 362 F.3d 264, 267 n.3 (4th Cir. 2004), cert. denied, 125 S. Ct. 861 (2005).

Our review of the record reveals that Higgins failed to appeal the immigration judge’s removal order to the Board of Immigration Appeals. Accordingly, we dismiss his petition for review on the ground that he failed to exhaust his administrative remedies. We 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.

PETITION DISMISSED