
¹Such Order became final June 6, 2000 when the Board of Immigration Appeal

Federal Rules of Civil Procedure November 9, 2000 which the undersigned referred to Magistrate Judge H. Kenneth Schroeder, Jr. pursuant to 28 U.S.C. §636(b)(1)(B) for a determination

B. Reid of the Batavia, N.Y. Immigration Court issued an oral decision January 10, 2000 ordering that petitioner be deported. Judge

his arrests for the various offenses which resulted in his convictions for third degree criminal possession of a weapon, fourth degree attempted grand larceny and third degree attempted criminal possession of a controlled substance all predated the enactment of AEDPA and IIRIRA.

Respondents moved to dismiss the petition on the basis that petiti

In his objections to the R&R⁴ petiti

⁴Petitioner is under the erroneous perception that the R&R was issued by the undersigned; it was issued by Magistrate Judge Schroeder.

⁵“Prior to AEDPA and IIRIRA, the Attorney General had discretion to

relief from deportation if removal proceedings had been commenced him at the time of his first two convictions. This objection to the R&R is also on an irrelevant ground because it is also mere *dicta*. Petitioner appears to be under the mistaken belief that he was not removable after his first two convictions because AEDPA and IIRIRA had not been enacted at such time and therefore he could not have requested discretionary relief from removal under 8 U.S.C. §1182(c). While petitioner is correct that he could not request relief from removal at such time — because no

that bars relief under the statutory scheme. Upon conviction, the punishment for the underlying criminal conduct was and remains some term of imprisonment plus deportation.” *Ibid.*⁶

Accordingly, it is hereby **ORDERED** that the objections to the R&R are overruled, th

⁶Internal punctuation, citation and footnote omitted.