

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
ARKANSAS, FORT SMITH DIVISION

Christopher Hulsey v. Frank Bisignano, Commissioner, Social
Security Administration

Hulsey · No. 2:25-cv-02120-TLB-MEF · Decided January 12, 2026

SUMMARY

This Magistrate Judge’s Report and Recommendation addresses a Social Security action seeking judicial review under 42 U.S.C. § 405(g). The court recommends granting the Commissioner’s motion to dismiss because the plaintiff filed suit before requesting review by the Appeals Council and therefore had not exhausted his administrative remedies. Dismissal is recommended without prejudice.

CASE DETAILS

COURT	United States District Court for the Western District of Arkansas, Fort Smith Division
WRITING FOR THE COURT	Mark E. Ford
JURISDICTION	United States District Court for the Western District of Arkansas, Fort Smith Division
DECIDED	January 12, 2026
DOCKET	2:25-cv-02120-TLB-MEF
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on the Commissioner's Rule 12(b)(6) motion to dismiss a Social Security Act judicial-review action for failure to exhaust administrative remedies.
STANDARD OF REVIEW	A district court's review under 42 U.S.C. § 405(g) is limited to a final decision of the Commissioner made after a hearing. Specific objections to a magistrate judge's report and recommendation trigger de novo review by the district court under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	Unknown; magistrate judge's report and recommendation
PARTIES	Christopher Hulsey v. Frank Bisignano, Commissioner, Social Security Administration

TOPICS

exhaustion of remedies

motions to dismiss

subject matter jurisdiction

judicial review of agency action

administrative procedure act

PRACTICE AREAS

Social Security

administrative law

federal civil procedure

QUESTIONS PRESENTED

1. Whether the court could review the ALJ's Social Security benefits decision under 42 U.S.C. § 405(g) when the plaintiff had not requested Appeals Council review.
2. Whether the Commissioner's motion to dismiss for failure to exhaust administrative remedies should be granted.

HOLDINGS

1. A Social Security claimant may not obtain judicial review under § 405(g) absent a final administrative decision of the Commissioner, and an ALJ decision does not become final for purposes of judicial review when the claimant has not requested Appeals Council review.
2. The complaint should be dismissed without prejudice because the plaintiff failed to exhaust the administrative remedies necessary to obtain a final Social Security decision.

KEY QUOTATIONS

"In the instant case, the Court does not have jurisdiction to review the Commissioner's decision because the Plaintiff has failed to exhaust his administrative remedies." (3)

"Accordingly, Plaintiff's Complaint should be dismissed." (3)

FACTUAL BACKGROUND

The Social Security Administration ALJ denied Hulsey's application for supplemental security income on August 27, 2025. Hulsey filed a federal action before requesting review by the Appeals Council, and the record contained no evidence that he had filed such a request. Because the Appeals Council had not acted on the ALJ's decision, the Commissioner argued that no final administrative decision existed for judicial review.

PROCEDURAL HISTORY

Hulsey applied for supplemental security income, and an ALJ denied his application on August 27, 2025. He filed this action under 42 U.S.C. § 405(g) on October 7, 2025, before requesting review by the Appeals Council. The Commissioner moved to dismiss, and Hulsey did not respond. The magistrate judge recommended granting the motion and dismissing the complaint without prejudice, subject to the parties' right to object within fourteen days.

DISPOSITION

other

CASES CITED

- Central States Southeast and Southwest Areas Pension Fund v. T.I.M.E.-DC, Inc., 826 F.2d 320, 328 (5th Cir. 1987)
- Smith v. Berryhill, 587 U.S. 471, 474-475 (2019)

OPINION

Hulsey

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF ARKANSAS

FORT SMITH DIVISION

CHRISTOPHER HULSEY PLAINTIFF

v. CIVIL NO. 2:25-cv-02120-TLB-MEF FRANK BISIGNANO, Commissioner Social Security Administration DEFENDANT

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Christopher Hulsey, brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision of the Commissioner of Social Security (the "Commissioner"). On December 8, 2025, the Defendants filed a motion to dismiss the Plaintiff's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 7). Despite the passage of more than 30 days, Plaintiff has not responded. I. Procedural History Plaintiff filed his application for supplemental security income on January 24, 2024. Following an administrative hearing, an Administrative Law Judge ("ALJ") denied Plaintiff's application for benefits on August 27, 2025. (ECF No. 7-1, pp. 16-29). Plaintiff initiated this civil action on October 7, 2025, prior to requesting review by the Appeals Counsel. (Id. at pp. 2-3). The Commissioner filed a Motion to Dismiss for Failure to State a Claim, alleging the Plaintiff failed to exhaust his administrative remedies. (ECF No. 7). As per the declaration of Lesha Cowell, court case preparer for the Commissioner, there is no evidence that the Plaintiff filed a request for review by the Appeals Council. (ECF No. 7-1, pp. 1-3). 1 II. Applicable Law Generally, exhaustion of administrative remedies is required in order to advance a number of policies including the following: (1) avoiding premature interruption of the administrative process; (2) allowing the agency to develop the necessary factual background upon which decisions should be based; (3) permitting the agency to exercise its discretion and apply its expertise; (4) improving the efficiency of the administrative process; (5) conserving scarce judicial resources; (6) giving the agency a chance to discover and correct its own errors; and (7) discouraging the ignoring of the agency's procedures. Central States Southeast and Southwest Areas Pension Fund v. T.I.M.E.-DC, Inc., 826 F.2d 320, 328 (5th Cir. 1987). One function of the Appeals Council is to act on requests for review of hearing decisions

made by Administrative Law Judges and to either grant, deny or dismiss any such request. Under the regulations of the Social Security Administration, if the Appeals Council denies a timely request for review of a hearing decision, that hearing decision becomes the “final decision” within the meaning of, and subject to, the provisions for judicial review in section 405(g) of the Social Security Act. 42 U.S.C. § 405(g). However, judicial review is limited in scope. *Id.* The Supreme Court has specifically held that § 405(h) prevents review of the Secretary’s decisions except as provided in § 405(g) of the Act. *Smith v. Berryhill*, 587 U.S. 471, 474-475 (2019). Section 405(g) provides in pertinent part: Any individual, after a final decision of the Commissioner made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner may allow. 42 U.S.C. § 405(g). 2

III. Discussion In the instant case, the Court does not have jurisdiction to review the Commissioner’s decision because the Plaintiff has failed to exhaust his administrative remedies. Plaintiff did not file a request for review with the Appeals Council, and the Appeals Council has not denied review of the Administrative Law Judge’s decision. As such, there is no final administrative decision of the Commissioner. Accordingly, Plaintiff’s Complaint should be dismissed. IV. Conclusion For the reasons stated above, the undersigned recommends that the Defendant’s Motion to Dismiss (ECF No. 7) be GRANTED and Plaintiff’s Complaint (ECF No. 2) be DISMISSED WITHOUT PREJUDICE. The parties have fourteen (14) days from receipt of this Report and Recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely written objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court. DATED this 12th day of January 2026. /s/ Mark E. Ford

HON. MARK E. FORD

UNITED STATES MAGISTRATE JUDGE