

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION

Mary R. v. Commissioner of Social Security

Mary R. · No. 1:25-cv-687 · Decided January 21, 2026

SUMMARY

A magistrate judge recommends converting the Commissioner of Social Security’s motion to dismiss into a motion for summary judgment and granting it. The recommendation concludes that the plaintiff’s action seeking review of a Social Security disability determination was untimely under 42 U.S.C. § 405(g), and that equitable tolling was unwarranted because the plaintiff had notice of the deadline and did not demonstrate diligence. The case is recommended for dismissal with prejudice.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division
WRITING FOR THE COURT	Kimberly A. Jolson
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division
DECIDED	January 21, 2026
DOCKET	1:25-cv-687
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on the Commissioner's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), or alternatively for summary judgment under Rule 56, in an action seeking judicial review of a Social Security Administration decision.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 56(a), summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views the evidence in the light most favorable to the nonmoving party. A motion to dismiss must be treated as one for summary judgment when matters outside the pleadings are presented and not excluded, provided the parties had a reasonable opportunity to present pertinent material.
PRECEDENTIAL VALUE	Nonprecedential report and recommendation; not a final district-court decision in the document provided.

PARTIES

Mary R. v. Commissioner of Social Security

TOPICS

summary judgment

statute of limitations

judicial review of agency action

administrative procedure act

civil procedure

PRACTICE AREAS

Social Security

administrative law

civil procedure

QUESTIONS PRESENTED

1. Whether the Commissioner's motion to dismiss should be converted into a motion for summary judgment because the parties presented matters outside the pleadings.
2. Whether Plaintiff's action for judicial review under 42 U.S.C. § 405(g) was untimely.
3. Whether equitable tolling should excuse Plaintiff's untimely filing based on her disability-related pain and inability to obtain counsel.
4. Whether the Commissioner was entitled to summary judgment and dismissal with prejudice.

HOLDINGS

1. The court may treat the Commissioner's motion to dismiss as a motion for summary judgment because the Commissioner filed an alternative Rule 56 motion, both parties submitted materials outside the pleadings, and Plaintiff had notice and an opportunity to respond.
2. Plaintiff's action was time-barred because she filed it more than sixty days after the Appeals Council's notice of dismissal, even after adding the regulatory five-day mailing period.
3. Equitable tolling was not warranted because Plaintiff had actual and constructive notice of the deadline, did not diligently pursue her rights, and the remaining considerations did not support tolling.

KEY QUOTATIONS

“Plaintiff does not dispute that she filed her complaint more than 60 days after receiving the Appeals Council notice: ‘I do not contest the fact that my request for judicial review of my disability claim was submitted after the allowed time for filing.’” (III.A)

“The Undersigned further RECOMMENDS that the Motion (Doc. 11) be GRANTED and that the case be DISMISSED with prejudice.” (IV)

FACTUAL BACKGROUND

The ALJ found that Plaintiff was not disabled before August 28, 2018, but became disabled on that date and remained disabled through the August 19, 2020 decision. The Appeals Council advised Plaintiff that she could seek review within sixty days, but she did not appeal until February 23, 2025, and the Appeals Council

dismissed the appeal as untimely. After receiving notice of the Appeals Council dismissal, Plaintiff filed this federal action more than sixty days later and acknowledged that the filing was late.

PROCEDURAL HISTORY

An ALJ partially denied Plaintiff's application for disability insurance benefits in 2020, finding that she was not disabled before August 28, 2018, but was disabled thereafter. Plaintiff appealed to the Appeals Council in February 2025, approximately four and a half years late, and the Appeals Council dismissed the request as untimely. Plaintiff then filed this action after the deadline for seeking judicial review. The magistrate judge recommends converting the motion to dismiss into a Rule 56 motion, granting summary judgment to the Commissioner, and dismissing the action with prejudice, subject to review by the district judge after any objections.

DISPOSITION

other

CASES CITED

- *Stringer v. Nat'l Football League*, 474 F. Supp. 2d 894, 903 (S.D. Ohio 2007)
- *Ball v. Union Carbide Corp.*, 385 F.3d 713, 719 (6th Cir. 2004)
- *Handley v. Gen. Sec. Servs. Corp.*, No. 1:07-CV-501, 2008 WL 11450752, at *2 (S.D. Ohio Oct. 2, 2008)
- *Foster Wheeler Env't Corp. v. Fluor Fernald, Inc.*, No. 1:07-CV-033, 2007 WL 2713780, at *2 n. 1 (S.D. Ohio Sept. 14, 2007)
- *Hodar v. Comm'r of Soc. Sec.*, No. 1:15CV72-JRA, 2015 WL 5657288, at *1 (N.D. Ohio Sept. 24, 2015)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)
- *Cox v. Kentucky Dep't of Transp.*, 53 F.3d 146, 150 (6th Cir. 1995)
- *Pachla v. Saunders Sys., Inc.*, 899 F.2d 496, 498 (6th Cir. 1990)
- *Cook v. Comm'r of Soc. Sec.*, 480 F.3d 432, 436-37 (6th Cir. 2007)
- *Bowen v. City of New York*, 476 U.S. 467, 480-81 (1986)
- *Harris v. Com'r of Soc. Sec.*, 25 F. App'x 273, 273 (6th Cir. 2001)
- *Dunlap v. United States*, 250 F.3d 1001, 1008 (6th Cir. 2001)
- *Hall v. Warden, Lebanon Corr. Inst.*, 662 F.3d 745, 750 (6th Cir. 2011)
- *Simmons v. Comm'r of Soc. Sec.*, No. 2:19-CV-1629, 2020 WL 6390065, at *3 (S.D. Ohio Nov. 2, 2020)
- *Dixon v. Gonzalez*, 481 F.3d 324, 331 (6th Cir. 2007)
- *Minton v. Comm'r of Soc. Sec.*, No. 3:15-CV-366, 2016 WL 1752745, at *3 (S.D. Ohio May 3, 2016)
- *Causley v. Saul*, No. 2:19-CV-00229, 2021 WL 9628854, at *2 (W.D. Mich. Jan. 19, 2021)
- *Ridner v. Comm'r of Soc. Sec.*, No. 1:11-CV-434, 2012 WL 1156430, at *4 (S.D. Ohio Apr. 6, 2012)
- *Moore v. Comm'r of Soc. Sec.*, No. 12-CV-15646, 2013 WL 3467027, at *3 (E.D. Mich. July 10, 2013)
- *Garrett v. Structured Cabling Sys., Inc.*, No. CIV. 10-55-DLB, 2010 WL 3862994, at *11 (E.D. Ky. Sept. 28, 2010)

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)

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