

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Billy J. Stafford v. Commissioner of Social Security

Stafford · No. 1:25-cv-00835-EPG · Decided January 16, 2026

OPINION

2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8 9
BILLY J. STAFFORD, Case No. 1:25-cv-00835-EPG 10 Plaintiff, FINAL JUDGMENT AND
ORDER 11 REGARDING PLAINTIFF’S SOCIAL v. SECURITY COMPLAINT 12
COMMISSIONER OF SOCIAL SECURITY, (ECF Nos. 1, 17). 13 Defendant. 14 15 This matter
is before the Court on Plaintiff’s complaint for judicial review of an 16 unfavorable decision by
the Commissioner of the Social Security Administration regarding his 17 application for
supplemental security income benefits.

The parties have consented to the entry of 18 a final judgment by the United States Magistrate
Judge under the provisions of 28 U.S.C. 19 § 636(c), with any appeal to the Court of Appeals for
the Ninth Circuit. (ECF No. 16). 20 Plaintiff argues that the ALJ improperly denied him benefits
because the ALJ “did not 21 have or use medical records from Loma [Linda] to make [a]
decision.” (ECF No. 17, p. 1).

In 22 response, Defendant argues that the Court should uphold the Appeals Council’s dismissal of
23 Plaintiff’s untimely appeal and dismiss Plaintiff’s case for failure to exhaust administrative 24
remedies. 25 Having reviewed the record, administrative transcript, parties’ briefs, and the
applicable 26 law, the Court will deny Plaintiff’s motion for summary judgment and close this
case.

27 \\\ 28 2 Plaintiff filed an application for supplemental security income benefits in 2021. (A.R.
32). 3 Despite being informed of his “right to representation, [he] chose to appear and testify
without the 4 assistance of an attorney or other representative.” (A.R. 32). 5 At the hearing,
Plaintiff testified that there were relevant records from Loma Linda 6 Hospital in 2001 and that he
may have a copy of these records.

(A.R. 50). The ALJ stated that the 7 ALJ would try to get the records but also gave Plaintiff three
weeks to submit them. (A.R. 51). 8 However, the ALJ was unable to obtain the records:
“Following the hearing, the 9 undersigned attempted to obtain medical records from Loma Linda
Hospital.

However, the 10 response to these requests was a letter indicating there was no record of treatment
for the 11 claimant.” (A.R. 32). Moreover, there is no indication that Plaintiff submitted the

records to the 12 ALJ. 13 Ultimately, the ALJ concluded that Plaintiff was not disabled in a decision issued on July 14 24, 2024, which the record indicates was mailed to Plaintiff at his home address in Ridgecrest, 15 California.

(A.R. 29, 40). Among other things, the ALJ noted that Plaintiff's "allegations of 16 disabling symptoms are undermined by an utter lack of documented treatment for any physical or 17 mental condition(s). The claimant has consistently acknowledged that he has not had any medical 18 treatment in many years (Exhibits 3E/4 & 10E/1; Hearing Record)." (A.R. 37). Additionally, the 19 ALJ relied on medical professionals' opinions to deny Plaintiff benefits, including the opinion of 20 a consultative examiner, Dr. Birgit Sierkerkotte, who opined that Plaintiff was capable of 21 performing medium work.

(A.R. 37-38). 22 On March 3, 2025, Plaintiff requested review of the ALJ's decision by the Appeals 23 Council. (A.R. 20-22). On May 8, 2025, the Appeals Council denied review, stating, in part, as 24 follows: 25 This case is before the Appeals Council on the claimant's request for review of the Administrative Law Judge's decision issued on July 24, 2024.

The request for 26 review filed on March 3, 2025, was not filed within 60 days from the date notice of the decision was received as required by 20 CFR 416.1468(a). The date of 27 receipt of such notice is presumed to be five (5) days after the date of such notice 28 unless a reasonable showing to the contrary is made. where the claimant has failed to file the request within the stated period of time 2 and the time for filing has not been extended (20 CFR 416.1471).

The time period will be extended if good cause is shown for missing the deadline (20 CFR 3 416.1468(b)). 4 The claimant did not respond to the Appeals Council's request for a statement of good cause explaining why the request for review was filed over five months late. 5 No mail has been returned as undeliverable and there is no discernible reason in 6 the record for filing the request for review late.

The Appeals Council, therefore, finds that there is no good cause to extend the 7 time for filing and, accordingly, dismisses the claimant's request for review. The 8 Administrative Law Judge's decision stands as the final decision of the Commissioner. 9 (A.R. 4). 10 Thereafter, Plaintiff filed his complaint in this Court, which was dated July 4, 2025. (ECF 11 No. 1).

12 After Plaintiff failed to timely file a motion for summary judgment, the Court 13 recommended to the then-presiding District Judge that this case be dismissed. (ECF No. 12). 14 Plaintiff filed objections to that recommendation, stating that he that he thought he had "sent it in 15 already," and that "[t]here must have been a mist[ake]." (ECF No. 14, p. 1).

16 The Court then extended Plaintiff's deadline to November 24, 2025, to file a motion for 17 summary judgment, and vacated its findings and recommendations recommending dismissal. 18 (ECF Nos. 15, 18). 19 II. PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT 20 Plaintiff

filed his motion for summary judgment on November 24, 2025, arguing that the 21 ALJ erred by not considering medical records from Loma Linda in rendering a decision.

(ECF 22 No. 17). Plaintiff states that he “sent all medical records to Office of Appellate Operations and 23 asked for a review of case on 3-3-25.” (Id. at 1) (minor alterations). He learned that his request 24 “was sent in late,” which resulted in the dismissal of his “request for review.” (Id.). Plaintiff 25 contends that his request for review “[w]as not sent in late” because he did not receive the ALJ’s 26 “decision until 1-30-25.” (Id.).

According to Plaintiff, he became worried when he had not heard 27 anything regarding his case and he “called [the] ALJ office [and] they sent [him] a letter right 28 2 Plaintiff’s motion is not accompanied by a declaration or any other evidence. 3 Defendant, the Commissioner of Social Security, filed its opposition brief on December 8, 4 2025. (ECF No. 19).

It argues that the Appeals Council did not abuse its discretion in dismissing 5 Plaintiff’s appeal as untimely and that Plaintiff’s assertions about a delay in receiving the ALJ’s 6 decision are not supported by any evidence. (Id. at 3).

The Commissioner also argues that, “[i]n 7 the event this Court does not affirm the Commissioner’s decision to dismiss Plaintiff’s request for 8 review for timeliness, the proper remedy in this case is to remand the case to the Appeals Council 9 to consider Plaintiff’s request for review, rather than reaching the merits of the underlying 10 disability claim.” (Id. at 4).

11 Plaintiff did not file a reply, and the fourteen-day period to do so has expired under the 12 Court’s scheduling order. (ECF No. 5, p. 2). 13 III. LEGAL STANDARDS 14 If a claimant is dissatisfied with an ALJ’s decision on the merits, he or she may request 15 review by the Appeals Council. 20 C.F.R. § 416.1400(a)(4) (“If you are dissatisfied with the 16 decision of the administrative law judge, you may request that the Appeals Council review the 17 decision.”); see 20 C.F.R. §§ 416.1467 (“If you or any other party is dissatisfied with the hearing 18 decision or with the dismissal of a hearing request, you may request that the Appeals Council 19 review that action.”).

20 To request review by the Appeals Council, the claimant must file a written request for 21 review within 60 days after receiving notice of the ALJ’s decision, or within the extended time 22 period if claimant is granted an extension of time. 20 C.F.R. § 416.1468(a) (“You may request 23 Appeals Council review by filing a written request.... You may file your request at one of our 24 offices within 60 days after the date you receive notice of the hearing decision or dismissal (or 25 within the extended time period if we extend the time as provided in paragraph (b) of this 26 section)”).

A claimant may ask for an extension of time as follows: 27 You or any party to a hearing decision may ask that the time for filing a request for the review be extended. The request for an extension

of time must be in writing. It must be filed with the Appeals Council, and it must give the reasons why the had good cause for missing the deadline, the time period will be extended.

To determine whether good cause exists, we use the standards explained in § 416.1411. 20 C.F.R. § 416.1468(b). A claimant is presumed to receive notice of an unfavorable social security decision of either the ALJ or Appeals Council “5 days after the date on the notice, unless [the claimant shows that they] did not receive it within the 5–day period.” 20 C.F.R. § 416.1401.

If a claimant does not file a request for review within the stated period, and the Appeals Council does not extend the time for filing for good cause, the Appeals Council will dismiss his request for review. 20 C.F.R. § 416.1471 (“The Appeals Council will dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended.”).

Finally, 42 U.S.C. § 405(g) states that a claimant may appeal an adverse decision of the Commission only after obtaining a final decision from the Commission, as follows: Any individual, after any 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 such decision or within such further time as the Commissioner may allow.

Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business.... The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.

42 U.S.C. § 405(g). In *Smith v. Berryhill*, 587 U.S. 471 (2019), the Supreme Court addressed the scope of a federal court’s review where the Appeals Council had denied, as untimely, a claimant’s request for review of ALJ’s denial of his application for supplemental security income.

The Court held that the federal court had jurisdiction to review the case because the dismissal by the Appeals Council constituted a “‘final decision... made after a hearing’ under § 405(g).” *Id.* at 483. Nevertheless, the Court also stated that, in the ordinary case, the federal court in such a circumstances should restrict its review to the procedural ground that was the basis for the Appeals Council’s dismissal, stating: generally goes astray if it decides a question that has been delegated to an agency if that agency has not first had a chance to address the question.

See, e.g., *INS v. Orlando Ventura*, 537 U.S. 12, 16, 18, 123 S.Ct. 353, 154 L.Ed.2d 272 (2002) (per 3 curiam); *ICC v. Locomotive Engineers*, 482 U.S. 270, 283, 107 S.Ct. 2360, 96 L.Ed.2d 222 (1987); cf. *SEC v. Chenery Corp.*, 318 U.S. 80, 88, 63 S.Ct. 454, 87 4 L.Ed. 626 (1943) (“For

purposes of affirming no less than reversing its orders, an 5 appellate court cannot intrude upon the domain which Congress has exclusively entrusted to an administrative agency”).

The Court’s cases discussing exhaustion 6 in the Social Security context confirm the prudence of applying this general principle here, where the agency’s final decisionmaker has not had a chance to 7 address the merits at all. See *City of New York*, 476 U.S. at 485, 106 S.Ct. 2022 8 (“Because of the agency’s expertise in administering its own regulations, the agency ordinarily should be given the opportunity to review application of those 9 regulations to a particular factual context”); *Salfi*, 422 U.S. at 765, 95 S.Ct.

2457 10 (explaining that exhaustion serves to “preven[t] premature interference with agency processes” and to give the agency “an opportunity to correct its own 11 errors,” “to afford the parties and the courts the benefit of its experience and expertise,” and to produce “a record which is adequate for judicial review”). 12 Accordingly, in an ordinary case, a court should restrict its review to the 13 procedural ground that was the basis for the Appeals Council dismissal and (if necessary) allow the agency to address any residual substantive questions in the 14 first instance.

15 *Id.* at 488 (footnotes omitted). The standard of review is “abuse of discretion as to the overall 16 conclusion, and ‘substantial evidence’ ‘as to any fact.’” *Id.* at 487 n. 19. 17 IV. DISCUSSION 18 Pursuant to *Smith*, the Court will restrict its review to whether the Appeals Council abused 19 its discretion in dismissing Plaintiff’s appeal for being untimely.

20 Here, Plaintiff acknowledges that the ALJ’s decision was rendered on July 24, 2024. (ECF 21 No. 17, p. 1). Accordingly, with the 60 days to file a request for review under 20 C.F.R. 22 § 416.1468(a), plus the 5 extra days permitted after the notice of decision under § 416.1401, 23 Plaintiff had 65 days, or until September 27, 2024, to request review from the Appeals Council.

24 However, as Plaintiff concedes, he did not file a request for review until March 3, 2025, over five 25 months after the deadline. (ECF No. 17, p. 1). 26 Notably, the decision itself indicates that it was sent to Plaintiff’s address on July 24, 27 2024. (A.R. 29).

Moreover, the Appeals Council noted that Plaintiff “did not respond to the 28 Appeals Council’s request for a statement of good cause explaining why the request for review 2 there is no discernible reason in the record for filing the request for review late.” (A.R. 4). 3 Plaintiff states that he did not receive the ALJ’s decision until January 30, 2025, which 4 occurred after he called the ALJ Office because he was “worried” after he “had not heard 5 anything.” (ECF No. 17, pp. 1-2).

Defendant argues that “Plaintiff has not provided any support 6 for his claim beyond this conclusory statement” and thus the Court should affirm the Appeals 7 Council’s decision. (ECF No. 19, p. 4). 8 The Court agrees with Defendant.

As noted above, social security provisions permit late 9 filed appeals if the claimant rebuts the presumption that they received the notice within 5 days 10 after the date of the notice, 20 C.F.R. § 416.1401, or if they show good cause to extend the 11 deadline to file an appeal, § 416.1468(a) and § 416.1411.

Here, Plaintiff has not provided any 12 corroborating evidence for his assertion that he received the ALJ's decision late. See *Ward v. Saul*, No. 1:19-CV-1555-JLT, 2020 WL 1532274, at *4 (E.D. Cal. Mar. 31, 2020) (concluding 14 that a plaintiff filed an untimely complaint for judicial review after noting that the plaintiff "ha[d] 15 not presented any evidence to show the letter from the Appeals Council was received more than 16 five days after the date indicated") (collecting cases); *Matlock v. Bowen*, No. C-85-6072-MHP, 17 1988 WL 252440, at *4 (N.D.

Cal. Dec. 19, 1988) (dismissing social security appeal where there 18 was "no evidence that Matlock's attorney did not receive the notice or was incapable of 19 representing his client for purposes of an appeal"). 20 The Court also notes that, in the case before this Court, Plaintiff failed to file his motion 21 for summary judgment by the deadline.

In his objections, he stated that he had "sent it in 22 already." (ECF No. 14, p. 1). While the Court permitted Plaintiff to file his motion for summary 23 judgment after the deadline, Plaintiff's failure to abide by the deadline in this case casts doubt on 24 his credibility regarding late filings. 25 After review of the record, the Court finds that the Appeals Council did not abuse its 26 discretion in dismissing Plaintiff's case as untimely, and the Court thus finds that Plaintiff's 27 appeal should be dismissed for lack of exhaustion of the remedies available at the Commission.

28 ¶ 1 V. CONCLUSION AND ORDER 2 Based on the above reasons, IT IS ORDERED that Plaintiff's motion for summary 3 ¶ judgment (ECF Nos. 17) is DENIED and Plaintiff's complaint (ECF No. 1) is dismissed for lack 4 ¶ of exhaustion.

The Clerk of Court is directed to enter a judgment in favor of the Commissioner 5 ¶ and close the case. 6 7 IT IS SO ORDERED. S| Dated: _ January 16, 2026 [spe ey □□ 9 UNITED STATES MAGISTRATE JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28