

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1341
Conference Calendar

STEVE M. MAMON,

Plaintiff-Appellant,

versus

THE SOCIAL SECURITY ADMINISTRATION,
ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3-92-CV-0193-J
- - - - -
(May 19, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Steve M. Mamon appeals the denial of his claim for Social Security disability benefits and seeks monetary damages from the individually-named defendants. Mamon contends that the district court erred by dismissing his complaint for failure to exhaust his administrative remedies.

Judicial review of an administrative agency's action is limited to final decisions that were issued by the Secretary after a hearing. See 42 U.S.C. § 405(g).

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

In Brandyburg v. Sullivan, 959 F.2d 555 (5th Cir. 1992), this Court decided whether the denial of an application for SSI disability benefits for the claimant's failure to appear at a hearing was a "final decision" within the meaning of 42 U.S.C. § 405(g) permitting appellate review. The Court explained the administrative processing of social security claims as follows. The claimant must first file a written request for reconsideration within sixty days of an original determination regarding entitlement to benefits. Id. at 557; 20 C.F.R. §§ 416.1407, 416.1409(a). After a timely request, reconsideration will be provided by case review, formal or informal conference, or disability hearing. Id.; 20 C.F.R. § 416.1413. If the claimant desires, he may then request a hearing before an ALJ where he may appear in person, present new evidence, examine the evidence upon which the determination was based, and present and question witnesses. Id.; 20 C.F.R. § 416.1407. The ALJ issues a written decision which includes findings of fact and the reason for the decision. Id.; 20 C.F.R. § 416.1453. All parties to the hearing are bound by the decision issued by the ALJ unless: 1) a party requests and receives a review by the Appeals Council within the prescribed time period or 2) the party requests and is denied review by the Appeals Council within the prescribed time period and the party then seeks judicial review in district court. Id.; 20 C.F.R. § 416.1455. Therefore, a final decision is rendered when the Appeals Council either reviews or denies review of the ALJ's decision and a claimant must pursue these steps through the Appeals Council decision in order to have exhausted administrative remedies. See Harper v. Bowen, 813 F.2d 737, 739 (5th Cir.), cert. denied, 484 U.S. 969 (1987).

The affidavit of William R. Waxman, the Director of the Office of Hearings and Appeals of the Social Security Administration, "SSA," in Texas, lists the following as the sequence of events pertaining to Mamon's claim: 1) Mamon filed a claim for disability insurance benefits on February 17, 1988; 2) An initial determination denying benefits was made on April 29, 1988; 3) The determination denying benefits included a notice of Mamon's right to appeal the decision; 4) On January 30, 1992, Mamon's civil lawsuit filed in a Texas state court was removed to federal district court. Therefore, Mamon did not exhaust his administrative remedies despite his contention that he wrote letters to the defendant asking for a reconsideration.

Mamon also challenges the district court's failure to allow him to recoup damages, asserting that the district court has discretion to award lump sum benefits and damages to an appellant who has been deprived of his constitutional rights. Under the Social Security Act, Congress did not provide a remedy for monetary damages against Social Security officials who administer the federal Social Security program. Schweiker v. Chilicky, 487 U.S. 412, 414, 108 S.Ct. 2460, 101 L.Ed.2d 370 (1988). Therefore, Mamon's claim for monetary damages is barred.

AFFIRMED.