

United States Court of Appeals
For the Eighth Circuit

No. 15-2435

Aaron Olson

Plaintiff - Appellant

v.

Carolyn W. Colvin, Acting Commissioner of Social Security; James Counts

Defendants - Appellees

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: March 17, 2016

Filed: March 24, 2016

[Unpublished]

Before WOLLMAN, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

Aaron Olson appeals from the order of the District Court¹ dismissing his suit in which he named the Social Security Administration (SSA) Commissioner and SSA case manager James Counts. Olson sought review of the denial of his application for disability insurance benefits (DIB) and an order requiring SSA and Counts to refrain from reducing his supplemental security income (SSI) benefits. He also filed a motion for joinder of claim in order to seek damages from Counts under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). The District Court denied the motion for joinder and dismissed Olson's case. Olson appeals.

We have carefully reviewed the record and the parties' submissions on appeal, and we agree with the District Court that the DIB claim is time-barred. It was brought more than three years after expiration of the time allowed for an appeal to a district court and there are no grounds for equitable tolling. See 42 U.S.C. § 405(g); Burns v. Prudden, 588 F.3d 1148, 1150 (8th Cir. 2009) (setting out the elements required to establish entitlement to equitable tolling). Further, Olson failed to exhaust his remedies on the claim for improper reduction of SSI benefits. See Sipp v. Astrue, 641 F.3d 975, 979–80 (8th Cir. 2011) (explaining the requirement for exhaustion of administrative remedies). Finally, Olson cannot maintain a Bivens claim against Counts. See 42 U.S.C. § 405(h); Schweiker v. Chilicky, 487 U.S. 412, 414 (1988).

We affirm the judgment of the District Court.

¹The Honorable Donovan W. Frank, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Jeffrey J. Keyes, United States Magistrate Judge for the District of Minnesota.