

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-30877
Summary Calendar

DELTON CRINER,

Plaintiff-Appellant,

versus

KENNETH S. APFEL, Commissioner
of Social Security,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 97-CV-500
- - - - -

July 2, 1999

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:*

Delton Criner appeals the district court's summary judgment in favor of the Commissioner's decision to terminate Criner's benefits. This court has jurisdiction to review the [Commissioner]'s final decision only where a claimant has exhausted [his] administrative remedies." Paul v. Shalala, 29 F.3d 208, 210 (5th Cir. 1994); see 20 C.F.R. § 404.900(b). A claimant fails to exhaust his administrative remedies if he does not raise a claim of error to the Appeals Council before filing

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

suit on that basis. McQueen v. Apfel, 168 F.3d 152, 155 (5th Cir. 1999). The record before this court contains a request that the Appeals Council review the Administrative Law Judge's (ALJ's) decision but no substantive arguments. This court thus lacks jurisdiction to review the arguments Criner presents. Under Paul, review may be undertaken to prevent a miscarriage of justice. Paul, 29 F.3d at 210. This court has reviewed the record and the arguments on appeal and is satisfied that dismissal of this appeal will not result in a miscarriage of justice.

APPEAL DISMISSED FOR LACK OF JURISDICTION.