

17-1606 SMITH V. BERRYHILL

DECISION BELOW: 880 F.3d 813

LOWER COURT CASE NUMBER: 17-5809

QUESTION PRESENTED:

The Social Security Act provides for judicial review of administrative decisions rejecting benefits claims: "[a]ny individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party," may obtain judicial review of that decision in federal court. 42 U.S.C. §405(g).

Disability benefit claims are initially heard by an administrative law judge; adverse decisions may be appealed to the Appeals Council. Appeals Council decisions rejecting a claim on the merits are subject to judicial review. But the courts of appeals disagree about whether judicial review is available when the Appeals Council finally rejects a claim on the ground that the claimant's administrative appeal was not timely.

The question presented is whether the Appeals Council's decision to reject a disability claim on the ground that the claimant's appeal was untimely is a "final decision" subject to judicial review under Section 405(g).

ORDER OF 11/5/2018: DEEPAK GUPTA, ESQUIRE, OF WASHINGTON, D. C., IS INVITED TO BRIEF AND ARGUE THIS CASE, AS AMICUS CURIAE, IN SUPPORT OF THE JUDGMENT BELOW.

CERT. GRANTED 11/2/2018