

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

Syllabus

**SIMS v. APFEL, COMMISSIONER OF SOCIAL SECURITY**

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 98–9537. Argued March 28, 2000– Decided June 5, 2000

Petitioner applied for Social Security disability and Supplemental Security Income benefits. After a state agency denied her claims, she obtained a hearing before a Social Security Administrative Law Judge (ALJ), who also denied her claims. Petitioner then requested review by the Social Security Appeals Council, which denied review. She next filed suit in the Federal District Court, contending that the ALJ erred in three ways. The District Court rejected her contentions, and the Fifth Circuit affirmed, concluding that it lacked jurisdiction over two of the contentions because they were not included in petitioner’s request for review by the Appeals Council.

*Held:* The judgment is reversed, and the case is remanded.

162 F. 3d 1160, reversed and remanded.

JUSTICE THOMAS delivered the opinion of the Court with respect to Parts I and II–A, concluding that Social Security claimants who exhaust administrative remedies need not also exhaust issues in a request for review by the Appeals Council in order to preserve judicial review of those issues. Although administrative issue-exhaustion requirements are largely creatures of statute, there is no contention that any statute requires such exhaustion here. It is also common for an agency’s regulations to require issue exhaustion in administrative appeals, but Social Security Administration (SSA) regulations do not. This Court has required issue exhaustion even in the absence of a statute or regulation, but the reason for doing so does not apply here. The desirability of a judicially imposed issue-exhaustion requirement depends on the degree to which the analogy to normal adversarial litigation applies in a particular administrative proceeding. See

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*Hormel v. Helvering*, 312 U. S. 552, 556. Where that proceeding is not adversarial, the reasons for a court to require issue exhaustion are much weaker than where the parties are expected to develop the issues themselves. Pp. 3–7.

JUSTICE THOMAS, joined by JUSTICE STEVENS, JUSTICE SOUTER, and JUSTICE GINSBURG, concluded in Part II–B that the differences between courts and agencies are nowhere more pronounced than in Social Security proceedings, which are inquisitorial rather than adversarial. The ALJ’s duty is to investigate the facts and develop the arguments both for and against granting benefits, and the Council’s review is similarly broad. The regulations expressly provide that the SSA conducts the administrative review process in an informal, nonadversary manner. As the Council, not the claimant, has primary responsibility for identifying and developing the issues, the general issue-exhaustion rule makes little sense in this context. Pp. 7–9.

JUSTICE O’CONNOR concluded that the SSA’s failure to notify claimants of an issue exhaustion requirement is a sufficient basis for holding that such exhaustion is not required in this context. Requiring issue exhaustion is inappropriate here, where the SSA’s regulations and procedures affirmatively suggest that specific issues need not be raised before the Appeals Council. Pp. 1–3.

THOMAS, J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I and II–A, in which STEVENS, O’CONNOR, SOUTER, and GINSBURG, JJ., joined, and an opinion with respect to Part II–B, in which STEVENS, SOUTER, and GINSBURG, JJ., joined. O’CONNOR, J., filed an opinion concurring in part and concurring in the judgment. BREYER, J., filed a dissenting opinion, in which REHNQUIST, C. J., and SCALIA and KENNEDY, JJ., joined.