

[NOT FOR PUBLICATION-NOT TO BE CITED AS PRECEDENT]

United States Court of Appeals For the First Circuit

No. 00-1213

LISA TSARELKA,
Plaintiff, Appellant,

v.

KENNETH S. APFEL,
Defendant, Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Mark L. Wolf, U.S. District Judge]

Before

Torruella, Chief Judge,
Stahl and Lynch, Circuit Judges.

Lisa Tsarelka on brief pro se.
Donald K. Stern, United States Attorney, and Anita Johnson,
Assistant United States Attorney, on brief for appellee.

October 3, 2000

Per Curiam. Appellant Lisa Tsarelka appeals from the dismissal of her complaint. The district court dismissed the complaint, by endorsement, based on the reasons set out in the motion to dismiss filed by appellee, Kenneth S. Apfel, the Commissioner of Social Security. There was no error in the action of the district court and the court's judgment is affirmed for essentially the reasons set out in the motion to dismiss.

We add only that despite appellant's arguments to the contrary, she has submitted no evidence that she ever had presented her claim regarding the termination of her Supplemental Security Income (SSI) benefits to an administrative law judge (ALJ) or the Appeals Council. Neither the ALJ nor the Council ever addressed such a claim. Further, the Appeals Council's reference to the amount of appellant's resources was made in a particular, limited context. That is, this reference was made to explain the Council's opinion that, given the little money appellant had at her disposal in May 1997, repayment of \$3,378 would not further the purpose of the SSI program. Significantly, the

Appeals Council did not make the comment in relation to the question whether appellant qualified for SSI benefits.

Affirmed. See Local Rule 27(c).