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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MICHAEL GOFF,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION,</p> <p>Defendant - Appellee.</p>
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No. 07-36089

D.C. No. CV-07-03040-GMK

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Garr M. King, District Judge, Presiding

Submitted June 16, 2009**

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

Michael Goff appeals pro se from the district court's judgment dismissing
for lack of subject matter jurisdiction his action challenging the Social Security

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

Administration's decision to discontinue his benefits from approximately 1980 to 1985. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Subia v. Comm'r of Soc. Sec.*, 264 F.3d 899, 901 (9th Cir. 2001). We affirm.

The district court properly dismissed the action for lack of subject matter jurisdiction because Goff failed to exhaust his administrative remedies in a timely manner. *See* 42 U.S.C. § 405(g) (limiting judicial review to a "final decision" of the Secretary made after a hearing); 20 C.F.R. § 416.1336(b) (requiring claimant to appeal the written notice of intent to suspend, reduce, or terminate payments within 60 days after the date of receipt of the notice). Moreover, Goff failed to allege a colorable constitutional claim. *See Subia*, 264 F.3d at 902 (explaining that a constitutional claim is not colorable if it clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or is wholly insubstantial or frivolous).

Goff's remaining contentions are unpersuasive.

AFFIRMED.