

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Tyrone Hurt,	:	
	:	
Plaintiff,	:	
v.	:	Civil Action No. 06-1446 (CKK)
	:	
Social Security Administration,	:	
	:	
Defendant.	:	

MEMORANDUM

Plaintiff, proceeding *pro se*, appears to claim that he is entitled to his deceased mother's social security retirement benefits. Defendant has moved for dismissal pursuant to Fed. R. Civ. P. 12(b)(6) and 12(e) but has also suggested that the Court lacks subject matter jurisdiction because plaintiff has not exhausted his administrative remedies. *See* Def.'s Motion to Dismiss or, in the Alternative, for Summary Judgment and Supporting Memorandum of Law at 3. "Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action." Fed. R. Civ. P. 12(h)(3).

The exhaustion of administrative remedies is a jurisdictional prerequisite to bringing an action seeking social security benefits. *See Ryan v. Bentsen*, 12 F.3d 245, 247 (D.C. Cir. 1993) ("The Secretary's "final decision" is a prerequisite to subject matter jurisdiction in the district court and consists of two components, a presentment requirement and an exhaustion requirement.") (footnote and citation omitted). Plaintiff does not dispute that he did not exhaust his administrative remedies. The Court therefore must dismiss the case. A separate Order accompanies this Memorandum.

s/

COLLEEN KOLLAR-KOTELLY
United States District Judge

Date: March 14, 2007