

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 21 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DAVID KAVANDI,

Plaintiff-Appellant,

v.

KILOLO KIJAKAZI, Acting Commissioner  
of Social Security,

Defendant-Appellee.

No. 20-55740

D.C. No. 2:19-cv-01252-CAS-AS

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Christina A. Snyder, District Judge, Presiding

Submitted December 14, 2021\*\*

Before: WALLACE, CLIFTON, and HURWITZ, Circuit Judges.

David Kavandi appeals pro se from the district court's affirmance of the Appeals Council's dismissal of his request for review of an ALJ's decision granting disability insurance benefits under Title II of the Social Security Act. We have jurisdiction under 28 U.S.C. § 1291 and 42 U.S.C. § 405(g). *Smith v.*

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

*Berryhill*, 139 S. Ct. 1765, 1780 (2019) (holding that an Appeals Council dismissal as untimely of a request for review, after a claimant has received an ALJ hearing on the merits, is a final decision for purposes of 42 U.S.C. § 405(g)). We review de novo, *Attmore v. Colvin*, 827 F.3d 872, 875 (9th Cir. 2016), and we affirm.

The Appeals Council did not abuse its discretion in dismissing Kavandi's request for review, where Kavandi failed to show good cause to excuse his untimely filing. *See* 20 C.F.R. § 404.911 (discussing good cause). Even accepting Kavandi's assertion that he did not know his attorney amended the alleged onset date, Kavandi did not show good cause where he did not dispute receiving the ALJ's notice, the ALJ's decision, and the subsequent award notice, and he did not allege that these materials contained incorrect or incomplete information. *See* 20 C.F.R. § 404.911(b)(6)-(7) (a claimant may show good cause where, for example, the Commissioner provided "incorrect or incomplete information about when and how to request administrative review" or where the claimant "did not receive notice of the determination or decision").

All pending motions are denied.

**AFFIRMED.**