

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 04-1776

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Sally Spaulding, formerly known as	*	
Sally Tobelmann,	*	
	*	
Appellant,	*	
	*	Appeal from the United States
v.	*	District Court for the
	*	Eastern District of Missouri.
Department of Health and Human	*	
Services,	*	[UNPUBLISHED]
	*	
Defendant,	*	
	*	
Social Security Administration,	*	
	*	
Appellee.	*	

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Submitted: August 4, 2005  
Filed: August 9, 2005

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Before COLLOTON, HANSEN, and BENTON, Circuit Judges.

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PER CURIAM.

Sally Spaulding appeals the district court's<sup>1</sup> adverse grant of summary judgment, and its adverse grant of a Federal Rule of Civil Procedure 12(b)(6) motion,

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<sup>1</sup>The Honorable Charles A. Shaw, United States District Judge for the Eastern District of Missouri.

in her action brought under the Rehabilitation Act of 1973 (Rehab Act). Having conducted de novo review, see Peebles v. Potter, 354 F.3d 761, 765 (8th Cir. 2004) (summary judgment standard of review); Ferris, Baker Watts, Inc. v. Ernst & Young, LLP, 395 F.3d 851, 853 (8th Cir. 2005) (Rule 12(b)(6) dismissal standard of review), we agree with the district court that Spaulding's retaliation claims were not administratively exhausted, see Wallin v. Minn. Dep't of Corr., 153 F.3d 681, 688 (8th Cir. 1998), cert. denied, 526 U.S. 1004 (1999); and that the Social Security Administration met its duty under the Rehab Act by restructuring Spaulding's job, see Peebles, 354 F.3d at 767. Spaulding cannot seek reversal by asserting ineffective assistance of counsel. See Glick v. Henderson, 855 F.2d 536, 541 (8th Cir. 1988) (defendant has no constitutional or statutory right to effective assistance of counsel in civil case).

Accordingly, we affirm. See 8th Cir. R. 47B.

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