

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-02881-CBS

FRED JOHNSON.

Plaintiff,

v.

ERIC K. SHINSEKI, Secretary, Department of Veterans Affairs,

Defendant.

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FINAL JUDGMENT

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Pursuant to and in accordance with Fed. R. Civ. P. 58(a) and the orders entered during the course of proceedings in this case, the following FINAL JUDGMENT is entered.

- I. Pursuant to the Memorandum Opinion and Order [Docket No. 43] granting in part Defendants' Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) & Fed. R. Civ. P. 12(b)(6),
  - a. Defendants Department of Veterans Affairs, Denver VA Medical Center, and its employees, Agents and Officers, and Lynette Roff, Hospital Administrator Denver VA Medical Center are dismissed as improper partes.
  - b. The First Claim for Relief is dismissed pursuant to Rule 12(b)(6) as untimely filed in the federal court.
  - c. The Second Claim for Relief is dismissed pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction based on failure to exhaust administrative remedies.

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II. Pursuant to the Memorandum Opinion and Order [Docket No. 52] on Defendant's Motion for Judgment on the Pleadings, entered by Magistrate Judge Craig B. Shaffer, on May 24, 2013, and incorporated herein by reference as if fully set forth, it is

ORDERED that Defendant Eric K. Shinseki, Secretary, Department of Veterans Affairs' Motion for Judgment on the Pleadings (Docket No. 47) is granted. Accordingly, Final Judgment is hereby entered in favor of the defendant Eric K. Shinseki, Secretary, Department of Veterans Affairs, and against the Plaintiff Fred Johnson. The Third Claim for Relief is dismissed. With no claims remaining, this civil action is dismissed in its entirety.

Dated at Denver, Colorado this 24<sup>th</sup> day of May, 2013.

ENTERED FOR THE COURT:  
JEFFREY P. COLWELL, CLERK

By: s/Edward P. Butler  
Edward P. Butler, Deputy Clerk