

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 12, 2012

No. 12-50140
Summary Calendar

Lyle W. Cayce
Clerk

WALTER A. COPENHAVER,

Plaintiff-Appellant

v.

MICHAEL J. ASTRUE, COMMISSIONER OF SOCIAL SECURITY; ERIC K.
SHINSEKI, SECRETARY OF VETERANS AFFAIRS,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-11-CA-189-FM

Before KING, CLEMENT, and HIGGINSON, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that Appellant Walter Copenhaver's Motion to Supplement Appellant's Brief on Appeal is GRANTED.

IT IS FURTHER ORDERED that Appellee Michael J. Astrue's Opposed Motion to Affirm the District Court Dismissal for Lack of Jurisdiction is GRANTED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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IT IS FURTHER ORDERED that Appellee Eric Shinseki's Opposed Motion to Dismiss Appeal for Lack of Jurisdiction is DENIED. However, our review of the record confirms that the district court did not err in concluding that it lacked subject matter jurisdiction over Appellant Walter Copenhaver's claims against the Department of Veterans Affairs. See 38 U.S.C. § 511; *Zuspann v. Brown*, 60 F.3d 1156, 1158-60 (5th Cir. 1995). The district court did err in one minor respect: its order states that Copenhaver's claims against the Department of Veterans Affairs are "DISMISSED WITH PREJUDICE." We modify this portion of the order to read "DISMISSED WITHOUT PREJUDICE." The district court's dismissal, as so modified, is therefore AFFIRMED.