

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 01-67V

E-Filed: July 17, 2012

_____)	
CAMILLE TRACY,)	
By Her Father and Next Friend,)	UNPUBLISHED
WILLIAM TRACY,)	
)	Autism; Petitioner’s
Petitioner,)	Motion for a Decision;
)	Insufficient Proof of
v.)	Causation; Vaccine Act
)	Entitlement; Denial
SECRETARY OF THE DEPARTMENT)	Without Hearing
OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

Gregory David Kincaid, Norton, Hubbard, et al., Olathe, KS.

Heather Pearlman, U.S. Department of Justice, Washington, DC.

DISMISSAL DECISION¹

On February 5, 2001, petitioner filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program (“the Program”),² alleging that his

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” decision will be available to the public. Id.

² The Program comprises Part 2 of the National Childhood Vaccine Injury

daughter, Camille, was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14. Specifically, petitioner alleged that Camille’s autism was the result of the measles-mumps-rubella vaccine that she received on February 9, 1998. Pet. at 1.

On May 29, 2012, the undersigned issued a dismissal decision based on insufficient proof and petitioner’s failure to prosecute. Petitioner timely filed a motion for reconsideration. Pet’r’s Motion for Reconsideration. The undersigned granted petitioner’s motion and vacated her earlier issued decision.

On July 16, 2012, petitioner moved for a decision on the merits of the petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation.

To receive compensation under the Program, petitioner must prove either 1) that Camille suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Camille’s vaccinations, or 2) that Camille suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that Camille suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Camille’s alleged injury was vaccine-caused.

Under the Act, petitioner may not be given a Program award based solely on the petitioner’s claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because there are insufficient medical records supporting petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Camille suffered a “Table Injury” or that Camille’s injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

s/ Patricia E. Campbell- Smith
Patricia E. Campbell- Smith
Chief Special Master

Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.