

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-885V

Filed: January 23, 2012

Not to be Published

SANDRA KAY HUNTER, Parent of KASEY	*	
LYNN WELCH, a minor	*	
	*	
Petitioner,	*	Autism; Petitioner's
	*	Motion for a Decision
	*	Dismissing her
v.	*	Petition; Insufficient
	*	Proof of Causation;
SECRETARY OF THE DEPARTMENT	*	Vaccine Act
OF HEALTH AND HUMAN SERVICES,	*	Entitlement
	*	
Respondent.	*	

DECISION¹

On December 17, 2011, petitioner filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),² alleging that Kasey was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14.

On June 10, 2011 petitioner was ordered to inform the court whether petitioner intended to proceed with this case. Petitioner did not respond to that order. On August 17, 2011, petitioner was again ordered to inform the court whether petitioner intended to proceed with this case or otherwise show cause within thirty days, why this case should

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

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

not be dismissed for failure to prosecute. The order was sent to petitioner's address of record by certified mail. Petitioner filed a response to that Order on September 15, 2011 indicating "I wish not to pursue this case please dismiss."

To receive compensation under the Program, petitioner must prove either 1) that Kasey suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Kasey's vaccinations, or 2) that Kasey suffered an injury that was actually caused by a vaccine. See §§13(a)(1)(A) and 11(c)(1). Under the Vaccine Act, a special master cannot find a petitioner has proven her case by a preponderance of the evidence based upon "the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion." § 13(a). Petitioner has failed to file sufficient medical records and evidence in this case. Thus, an examination of the record did not uncover any evidence that Kasey suffered a "Table Injury." Further, the record does not contain a medical opinion or any other persuasive evidence indicating that Kasey's autism spectrum disorder was vaccine-caused.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Kasey suffered a "Table Injury" or that Kasey's injuries were "actually caused" by a vaccination. **This case is dismissed for insufficient proof and for failure to prosecute. The clerk shall enter judgment accordingly.**³

IT IS SO ORDERED.

Gary J. Golkiewicz
Special Master

³ This document constitutes my final "Decision" in this case, pursuant to § 12(d)(3)(A). If petitioner wishes to have this case reviewed by a Judge of the United States Court of Federal Claims, a motion for review of this decision must be filed within 30 days. After 30 days the Clerk of this Court shall enter judgment in accord with this decision. If petitioner wishes to preserve whatever right petitioner may have to file a civil suit (that is a law suit in another court) petitioner must file an "election to reject judgment in this case and file a civil action" within 90 days of the filing of the judgment. § 21(a).