

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 12-0028V

(Filed: January 31, 2013)

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JACLYN ELIZABETH FARRAR, as Parent and Next))	UNPUBLISHED
Friend of MADISON MAE FARRAR,))	
)	
Petitioner,))	Petitioner’s Motion for a
)	Decision Dismissing the
v.))	Petition; Insufficient Proof
)	of Causation; Denial
SECRETARY OF THE DEPARTMENT))	Without A Hearing
OF HEALTH AND HUMAN SERVICES,))	
)	
Respondent.))	
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Howard Gold, Wellesley Hills, MA, for petitioner.

Ryan Daniel Pyles, Washington, DC, for respondent.

DECISION¹

On January 13, 2012, petitioner filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program (“the Program”),² alleging that various

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 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.

vaccinations injured Madison. The information in the record, however, does not show entitlement to an award under the Program.

On January 30, 2013, 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 Madison suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Madison’s vaccinations, or 2) that Madison 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 Madison suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion that is sufficient to prove that Madison’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 that is adequate to meet the burden of a causal relationship. § 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 offered such opinion from Dr. Bernardo Merizalde, however, he declined the opportunity to file a supplemental expert report. Without more, Dr. Merizalde’s opinion was insufficient to meet petitioner’s evidentiary burden.

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

IT IS SO ORDERED.

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