

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 02-1072

(Filed: January 28, 2011)

Not to be Published

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| LAURA THOMAS, |) | |
| as parent of SAMANTHA THOMAS, |) | |
| a minor |) | |
| |) | |
| Petitioner, |) | Dismissal; Failure to Follow Court |
| |) | Orders; Failure to Submit Supporting |
| |) | Medical Records or Expert |
| |) | Opinion; Failure to Prosecute |
| |) | |
| v. |) | |
| |) | |
| SECRETARY OF THE DEPARTMENT |) | |
| OF HEALTH AND HUMAN SERVICES, |) | |
| Respondent. |) | |
| <hr/> |) | |

DECISION¹

The above-named petitioner filed a Short-Form Autism Petition for Vaccine Compensation on August 26, 2002. Thereafter, petitioner failed to file medical records and/or a “Statement of Compliance with Phase One Medical Records Production” as ordered by the undersigned on December 11, 2008, December 1, 2009, and October 5, 2010.

The undersigned repeatedly warned petitioner that noncompliance with court Orders would not be tolerated and could lead to dismissal of petitioner’s claim. See Order filed December 1, 2009; Order filed October 5, 2010. Further, the undersigned warned petitioner in the court’s December 1, 2009 Order, that “failure to follow court Orders, as well as failure to file medical records, or an expert medical opinion shall result

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, 116 Stat. 2899, 2913 (Dec. 17, 2002). 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.

in dismissal of petitioner's claim." Order filed December 1, 2009 citing Tsekouras v. Sec'y of HHS, 26 Cl. Ct. 439 (1992), 991 F.2d 810 (Fed. Cir. 1993) aff'd per curiam without opin; Sapharas v. Sec'y of HHS, 35 Fed. Cl. 503 (1996).

Petitioner has failed to file any medical records or the opinion of an expert to support petitioner's claim in the instant case.² Additionally, petitioner has failed to respond to any of the court's Orders in any manner in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioner's claim for failure to prosecute or comply with the Vaccine Rules, or the court's Orders. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

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

² The Vaccine Act provides that a special master cannot find that 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 medical opinion." 42 U.S.C. § 300aa-13 (a). Petitioner's failure to file medical records has prevented the undersigned from addressing any aspect of the merits of petitioner's claim.