

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-7741V

(E-Filed: December 12, 2011)

ELEANOR CATHERINE CLIFFORD,)
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 Petitioner,)
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 v.)
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 SECRETARY OF THE DEPARTMENT)
 OF HEALTH AND HUMAN SERVICES,)
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ORDER¹

By Opinion and Order dated November 8, 2011, Judge George Miller dismissed aspects of Ms. Clifford’s claim for lack of jurisdiction.² Opinion at 5. Judge Miller referred Ms. Clifford’s vaccine-related injury claims to the Office of Special Masters. *Id.* Upon entry of judgment on November 9, 2011, the matter was referred to the attention of the undersigned.

As detailed in Judge Miller’s opinion, Ms. Clifford filed a complaint (that she amended twice) in the United States Court of Federal Claims on November 4, 2010. She alleged the genocide of her sister, Ivy Olin. Compl. ¶ A.1. She further alleged that she

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.*

² Judge Miller transferred Ms. Clifford’s claims for Social Security benefits to the United States District Court for the Western District of Wisconsin. Opinion at 5.

had been the victim of an attempted genocide pursuant to 18 U.S.C. § 1091 because: (1) she contracted vaccine-related polio; (2) during childbirth, she suffered anaphylactic shock, which was concealed from her; (3) she and her sister were severely allergic to the thimerosal component in their administered vaccines, a fact that was concealed from both Ms. Clifford and her sister; and (4) she suffered permanent mind and body damage from vaccines containing thimerosal, that were administered with the intent to cause serious bodily harm or death. Compl. ¶ B.1.A-D. Ms. Clifford also claimed that vaccines containing thimerosal were used with intent to cause permanent damage to her mental faculties. *Id.* ¶ C.I. Ms. Clifford's other complaints were lodged against the Social Security Administration.

As referenced in Judge Miller's Opinion, Ms. Clifford had previously filed a vaccine petition.³ The vaccine petition was assigned to Special Master Denise Vowell. A careful review of the two files indicates that the claims detailed in Ms. Clifford's action before the Court of Federal Claims were substantially similar to the claims she had previously detailed in the vaccine petition she filed on October 21, 2010. During a series of digitally-recorded status conferences with Ms. Clifford and counsel from the Department of Justice, Special Master Vowell pointed out that a number of Ms. Clifford's claims were not vaccine-related and thus could not be addressed within the Office of Special Masters. Special Master Vowell also pointed out that other of Ms. Clifford's vaccine-related claims were time-barred. At the time for issuance of the statutorily-required 240-day notice,⁴ Special Master Vowell advised Ms. Clifford that she could withdraw her petition or elect to leave her petition before the special master. *See* Order dated June 27, 2011. Special Master Vowell included two templates with the issued 240-day notice, directing Ms. Clifford to return the one template filing that expressed her choice. *Id.* Ms. Clifford elected to withdraw her petition, and on July 15, 2011, Special Master Vowell issued an Order Concluding Proceedings based on petitioner's election.

The Vaccine Act provides that only one petition may be filed with respect to each administration of a vaccine. 42 U.S.C. §300aa-11(b)(2). Ms. Clifford has asserted certain vaccine claims in the petition she filed with the Office of Special Masters on October 21, 2010. She elected to withdraw those claims from consideration. She subsequently reasserted the same vaccine-related claims in the complaint she filed in the

³ Ms. Clifford filed her vaccine petition fifteen days before she filed her action before the Court of Federal Claims.

⁴ Section 12(g) of the Vaccine Act requires that if a special master has not made a decision on a vaccine decision within 240 days of the filing of the petition, such special master shall provide notice to petitioner that petitioner may elect to withdraw the petition or may choose to have the petition remain before the special master. 42 U.S.C. §300aa-12(g).

Court of Federal Claims on November 4, 2010, and those claims have been referred back to the Office of Special Masters for consideration. The Vaccine Act, however, does not permit the initiation of a second vaccine petition to address matters related to the administration of vaccines that were the subject of an earlier filed vaccine petition.⁵ Accordingly, the undersigned is unable to accept the referred vaccine matter for consideration.

IT IS SO ORDERED.

Patricia E. Campbell-Smith
Chief Special Master

⁵ The circumstances of this referral are distinguishable from the circumstances that permit the tolling of the statute limitations when a petitioner's civil action involving vaccine-related claims is dismissed to permit that petitioner to pursue, in the first instance, the vaccine-related claims before the Office of Special Masters. See 42 U.S.C. §300aa-11(a)(2)(A)-(B); see also 42 U.S.C. §300aa-11(b)(2) (" Only one petition may be filed with respect to each administration of a vaccine.").