

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

(Filed: November 5, 2007)

DO NOT PUBLISH

ABRAHAM T. BARRON,)	
)	
Petitioner,)	
)	
v.)	No. 06-0855V
)	Decision on the Record;
SECRETARY OF)	Dismissal
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

DECISION¹

The case is before the special master on petitioner’s medical status report and motion for ruling on the record. See Petitioner’s Medical Status Report and Motion for Ruling on the Record (Motion), filed November 2, 2007. On December 15, 2006, petitioner, Abraham T. Barron (Mr. Barron), filed a petition seeking compensation under the National Vaccine Injury Compensation Program (Program).² See Petition (Pet.) Mr. Barron alleged that he had been rendered “legally blind” by “bilateral inflammatory retinal/maculopathy.” Pet. at 1. Mr. Barron attributed his condition to an influenza vaccination that he received on December 8, 2003. See id. Mr. Barron submitted with his petition affidavits from two treating neuro-ophthalmologists, Thomas J. Whittaker, M.D. (Dr. Whittaker), see Petitioner’s exhibit (Pet. ex.) B, and Bradley K. Farris, M.D.

¹ 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and 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 statutory provisions governing the Vaccine Program are found in 42 U.S.C. §§ 300aa-10 et seq. For convenience, further reference will be to the relevant section of 42 U.S.C.

(Dr. Farris). *See* Pet. ex. C. Both opined that Mr. Barron’s vision loss represented a reaction to Mr. Barron’s December 8, 2003 influenza vaccination. *See* Pet. ex. B; Pet. ex. C.

In the Rule 4 report, respondent denied that Mr. Barron was entitled to Program compensation. *See generally* Respondent’s Report (Report), filed March 16, 2007. Respondent proffered with the Report a medical opinion from Mitchell S. Fineman, M.D. (Dr. Fineman). *See* Respondent’s exhibit (R. ex.) A. Dr. Fineman identified himself “[a]s a vitreoretinal specialist” with “extensive experience interpreting electroretinograms, as well as in the diagnoses and treatments of retinal disorders.” R. ex. A at 6. Based upon Mr. Barron’s most current medical records revealing “a significant change in [Mr. Barron’s] examination findings,” Report at 7, n.5, Dr. Fineman advanced that Mr. Barron suffers “a cone-rod dystrophy, a type of hereditary retinal dystrophy.” R. ex. A at 11. Thus, in Dr. Fineman’s view, Mr. Barron’s “influenza vaccination preceded the onset of visual loss merely by coincidence.” *Id.*

Following the Rule 5 conference on April 18, 2007, Mr. Barron investigated further the medical basis of his case. *See, e.g.*, Status Report of Petitioner, filed May 18, 2007; Status Report of Petitioner, filed June 25, 2007; Status Report of Petitioner, filed August 24, 2007. Mr. Barron consulted Dr. Farris, among others. *See, e.g.*, Status Report of Petitioner, filed August 24, 2007; Motion. According to Mr. Barron, Dr. Farris expressed that he could sustain his initial opinion in the case “if [Mr. Barron’s] vision had not truly deteriorated” over the years. Motion at 1. However, according to Mr. Barron, Dr. Farris expressed that “if in fact [Mr. Barron’s] vision had deteriorated as was demonstrated in a February 2007 medical exam,” Dr. Farris would conclude that “congenital cone dystrophy would be the likely cause of [Mr. Barron’s] vision problems.” *Id.* Mr. Barron concedes “candidly” that his “vision” has “deteriorated.” *Id.* at 2. As a consequence, Mr. Barron appears to concur with Dr. Fineman and with Dr. Farris that he exhibits a hereditary condition resulting in blindness. *See id.*

The special master has reviewed thoroughly the record as a whole. The special master determines that Mr. Barron has not established by the preponderance of the evidence that he has experienced a vaccine-related injury. Therefore, the special master rules that Mr. Barron is not entitled to Program compensation.

In the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment dismissing the petition.

The clerk of court shall send Mr. Barron’s copy of this decision to Mr. Barron by overnight express delivery.

John F. Edwards
Special Master