

OFFICE OF SPECIAL MASTERS

No. 04-1482V

Filed: October 25, 2007

FRANK CATANZARITE,

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Petitioner,

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v.

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Ruling on Record

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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DECISION¹

On September 21, 2004 petitioner filed a Petition for Vaccine Compensation. Petitioner filed a Notice of Intent to Remain in the Program on June 2, 2005. On September 17, 2007 the petitioner filed a Motion for Decision on the Record. A status conference was held on October 2, 2007, to discuss the Motion for Decision on the Record. At this status conference petitioner’s counsel stated that the reason for filing the Motion for Decision on the Record was because there was “no case”.

To receive compensation under the National Vaccine Compensation Program (hereinafter “the Program”), petitioner must prove either 1) Mr. Catanzarite suffered a “Table Injury” - i.e., an injury falling within the Vaccine Injury Table - corresponding to one of his vaccinations, or 2) that Mr. Catanzarite suffered an injury that was actually caused by a vaccine. See 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1)². The undersigned’s examination of the filed medical records did not uncover any evidence that Mr. Catanzarite suffered a “Table Injury”. Further ,

¹The undersigned intends to post this decision on the United States Court of Federal Claims’s 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 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.

²The 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. (West 1991 & Supp. 2002) (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. §§ 300aa of the Act.

the records do not contain a medical expert's opinion or any other persuasive evidence indicating that Mr. Catanzarite's illness was vaccine-caused.

Under the Act, a petitioner may not be given a Program award based solely on the petitioner's claim alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because the medical records do not support petitioner's claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate that Mr. Catanzarite suffered a "Table Injury" or that his injuries were "actually caused" by a vaccination. Thus, the court must dismiss this case for want of proof. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master