

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 01-199V

Filed: November 28, 2011

_____)	
MARY FORR, as representative of)	
the Estate of KATHRYN FORR,)	
)	NOT TO BE PUBLISHED
Petitioner,)	
)	
v.)	Thimerosal; Petitioner's Motion for a
)	Decision; Dismissing the Petition for
)	Insufficient Proof of Causation; Vaccine
SECRETARY OF)	Act Entitlement; Denial Without Hearing
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, M.A., for Petitioner.
Ryan D. Pyles, United States Dep't of Justice, Washington, D.C., for Respondent.

DECISION ¹

On April 4, 2001, Mary Forr ("Petitioner"), mother of Kathryn Forr ("Kathryn"), filed a Petition For Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program").² Petitioner alleges that Kathryn died as a direct result of receiving three hepatitis B vaccinations. Following her first hepatitis B vaccination in July 1998, Kathryn had a sudden blood pressure drop and was taken to the emergency area of the hospital where she was vaccinated. Pet. at 1. Kathryn received the hepatitis B vaccine again on August 17, 1998, and April 1, 1999. Id. Within hours of the third vaccination, Kathryn became sick with vomiting and dizziness. Id. at 2. She did not feel well throughout the weekend, but returned to school on Monday, April 5, 1999. Id. That day, while running at the track, she collapsed and died. Id.

This case became part of a group of cases in which all petitioners alleged that thimerosal in pediatric vaccines caused, contributed to, or triggered the death of a

¹ In accordance with Vaccine Rule 18(b), petitioner has 14 days to file a proper motion seeking redaction of medical or other information that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Redactions ordered by the special master, if any, will appear in the document as posted on the United States Court of Federal Claims' website.

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.

vaccinee. On November 23, 2010, Special Master Abell issued a decision denying entitlement in Kolakowski v. Secretary of Department of Health & Human Services, No. 99-625V, 2010 WL 5672753 (Fed. Cl. Spec. Mstr. Nov. 23, 2010), the test case in the group. Special Master Abell found that the petitioners failed to prove that thimerosal-containing vaccines can cause death in infant vaccinees and that they failed to prove thimerosal-containing vaccines caused Thomas Kolakowski's death. The decision was not appealed.

On September 27, 2011, Petitioner was ordered to file an amended petition identifying an alternative theory of causation in light of Kolakowski. On November 23, 2011, Petitioner moved for a decision dismissing her petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation under the Act.

To receive compensation under the Program, Petitioner must prove either that 1) Kathryn suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) Kathryn suffered an injury that was actually caused by a vaccine. See §§ 13(a)(1)(A)-(B) and 11(c)(1). Under the Vaccine Act, a special master cannot find that a petitioner has proven his case based upon "the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion." § 13(a). An examination of the record did not uncover any evidence that Kathryn suffered a "Table Injury." Further, the record does not contain a medical expert's opinion or any other persuasive evidence indicating that her alleged injury was vaccine-caused. See Kolakowski.

Accordingly, it is clear from the record in this case that Petitioner has failed to demonstrate either that Kathryn suffered a "Table Injury" or that her 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/Dee Lord
Dee Lord
Special Master