

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-475V

October 27, 2011

Not to be Published

JIM and SARAH CRANER, parents of *
MACY CRANER, *

Petitioners, *

v. * Petitioners' motion to dismiss;

seizures; SCN1A mutation

SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *

Respondent. *

Milton C. Ragsdale, IV, Birmingham, AL, for petitioners.
Jennifer L. Reynaud, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION¹

On July 23, 2010, petitioners filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa-10-34 (2006), alleging that their

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access.

daughter Macy suffered seizures caused by numerous vaccinations she had received. Later, medical testing showed that the child had a mutation of her SCN1A gene. On July 11, 2011, Dr. Amy R. Brooks-Kayal, Chief of the Division of Neurology at Children's Hospital, diagnosed Macy with medically intractable epilepsy secondary to Dravet's syndrome (severe myoclonic epilepsy of infancy). Med. recs. at Ex. 16, p. 1. Petitioners' counsel consulted with petitioners' treating pediatric neurologist Dr. Jessica Litwin, who also opined that the SCN1A mutation was the cause of Macy's seizures.

On October 27, 2011, the undersigned held a telephonic status conference with counsel. Petitioners' counsel orally moved to dismiss this case.

The undersigned hereby orders the petition dismissed.

DISCUSSION

To satisfy their burden of proving causation in fact, petitioners must prove by preponderant evidence "(1) a medical theory causally connecting the vaccination and the injury; (2) a logical sequence of cause and effect showing that the vaccination was the reason for the injury; and (3) a showing of a proximate temporal relationship between vaccination and injury." Althen v. Sec'y of HHS, 418 F.3d 1274, 1278 (Fed. Cir. 2005). In Althen, the Federal Circuit quoted its opinion in Grant v. Sec'y of HHS, 956 F.2d 1144, 1148 (Fed. Cir. 1992):

A persuasive medical theory is demonstrated by "proof of a logical sequence of cause and effect showing that the vaccination was the reason for the injury[.]" the logical sequence being supported by "reputable medical or scientific explanation[.]" *i.e.*, "evidence in the form of scientific studies or expert medical testimony[.]"

Without more, "evidence showing an absence of other causes does not meet petitioners' affirmative duty to show actual or legal causation." Grant, 956 F.2d at 1149. Mere temporal association is not sufficient to prove causation in fact. Id. at 1148.

Petitioners must show not only that but for the vaccines, Macy would not have had seizures, but also that the vaccine was a substantial factor in bringing about her seizures.

Shyface v. Sec'y of HHS, 165 F.3d 1344, 1352 (Fed. Cir. 1999).

In the instant action, Macy's own treating physicians have stated in writing and orally that the mutation of her SCN1A gene is the cause of her seizures. Petitioners have not provided any expert report to substantiate their allegations and have asked for dismissal.

CONCLUSION

Petitioners' petition is dismissed. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

October 27, 2011
DATE

s/Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.