

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 11-296V

Filed: October 18, 2013

SETH T. ANGELO, *
*
Petitioner, *
*
v. *
*
SECRETARY OF HEALTH *
AND HUMAN SERVICES, *
*
Respondent. *

Failure to Prosecute; Failure to
Follow Court Orders; Dismissal

DECISION¹

Vowell, Chief Special Master:

On May 12, 2011, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the “Vaccine Act” or “Program”].

On March 28, 2013, petitioner was ordered to participate in a telephonic status conference to be held on April 15, 2013. The time of the conference was changed to accommodate Mr. Angelo’s schedule. However, on April 15, 2013, despite multiple attempts to reach Mr. Angelo by telephone at the number provided, he did not answer and did not respond to messages left for him to call and participate.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims’ website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755 (1986). Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

On April 19, 2013, petitioner's counsel filed a motion to withdraw, which described past difficulties he had in reaching his client, Mr. Angelo. On July 25, 2013, the special master then assigned to this case granted the motion to withdraw. Petitioner is now without counsel, proceeding *pro se*. On August 21, 2013, an order was sent by certified mail to petitioner scheduling a telephonic status conference for September 18, 2013 at 4:00 P.M. Eastern Time. This case was assigned to me on September 4, 2013.

On September 18, 2013, my chambers tried to contact Mr. Angelo for the scheduled telephonic status conference and the call went directly to voicemail. On September 19, 2013, I issued an order to show cause. *Pro se* petitioner, Seth Thomas Angelo, was ordered to contact my chambers, or show cause why this case should not be dismissed for failure to prosecute, by no later than Thursday, October 9, 2013. To date, no response has been received from petitioner.

It is petitioner's duty to respond to court orders.³ As I reminded petitioner in my September 19, 2013 order, failure to follow court orders, as well as failure to file medical records or an expert medical opinion, shall result in dismissal of petitioner's claim. *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b).

This case is dismissed for failure to prosecute. The clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Denise K. Vowell
Chief Special Master

³ My September 19, 2013 show cause order was sent to petitioner by both regular and certified mail. According to usps.com, the certified order was delivered on September 23, 2013. The order sent by regular mail was not returned to the court, so I presume it, too, was timely delivered.