

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

No. 11-225V

Filed: March 23, 2012

(Not for Publication)

JENNIFER COUTE-MAROTTA,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Petitioner’s Motion for a Decision;
Dismissing the Insufficient Petition;
Proof of Causation; Vaccine Act
Entitlement; Denial Without Hearing

DECISION¹

Vowell, Special Master:

On April 11, 2011, Jennifer Coute-Marotta [“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”]. The petition alleged that she suffered a neurological demyelinating injury as a result of receiving a human papillomavirus [“HPV”] vaccine on April 18, 2008.

On August 25, 2011, I ordered petitioner to file her expert report by December 23, 2011. On December 21, 2011, petitioner filed a status report indicating that she required “additional time to discuss future proceedings of this case with her counsel,” and requesting until February 6, 2012 to file her expert report. I ordered petitioner to file either a status report indicating she intends to continue to pursue her case or the

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, 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).

appropriate pleading to dismiss her case by February 6, 2012. Order, filed Dec. 21, 2011. I also extended her expert report deadline to March 22, 2012. *Id.*

On February 6, 2012, petitioner filed a status report indicating she intends to continue to pursue her claim and was currently searching for alternative counsel. She requested until March 7, 2012, to update the court on future proceedings in this case. After holding a status conference with the parties, I ordered petitioner's counsel to file a motion to withdraw or a motion to substitute counsel by no later than March 22, 2012. Order, filed Feb. 22, 2012.

On March 22, 2012, petitioner indicated that she "has decided not to proceed forward with her claim in the Vaccine Program," and moved for a decision on the merits of the petition.

To receive compensation under the Program, petitioner must prove either 1) that she suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) that she suffered an injury that was actually caused by a vaccine. See §§ 13(a)(1)(A), 11(c)(1). An examination of the record did not uncover any evidence that petitioner suffered a "Table Injury." Further, the record does not contain a medical expert's opinion or any other persuasive evidence indicating that petitioner's alleged injury was vaccine-caused.

Under the Act, petitioner may not be given a Program award based solely on the petitioner's claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 13(a)(1). In this case, because there are insufficient medical records supporting 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 failed to demonstrate either that she 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 Denise K. Vowell
Denise K. Vowell
Special Master