

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

No. 11-356V

Filed: October 26, 2011

(Not to be Published)

APRIL L. GARTON and JEREMIAH *
R. CASMIRE, SR., natural parents of *
Jeremiah R. Casmire, Jr., deceased, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

Damages Decision Based on Proffer;
MMR; Encephalopathy; Death; Table

Nathan M. Miller, Esq., Indianapolis, IN, for petitioners.
Lara A. Englund, Esq., U.S. Dept. of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Vowell, Special Master:

On June 6, 2011, April L. Garton and Jeremiah R. Casmire, Sr., 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”] alleging that their son, Jeremiah

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 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. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

Casmire, Jr., suffered a hypoxic/ischemic insult encephalopathy, which was caused-in-fact by the MMR vaccine he received on April 19, 2010, and died as a sequelae of the encephalopathy. Petition at 3-4, 14. On October 26, 2011, respondent filed a proffer on award of compensation, which indicated that the petitioners agreed to the compensation amount.

Pursuant to the terms stated in the attached Proffer, **I award petitioners a lump sum payment of \$250,000.00 in the form of a check payable to petitioners, April L. Garton and Jeremiah R. Casmire, Sr.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Denise K. Vowell

Denise K. Vowell
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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APRIL L. GARTON and JEREMIAH R. CASMIRE, SR., Natural Parents of JEREMIAH CASMIRE, JR., Deceased,)	
)	
Petitioners,)	
)	
v.)	
)	
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

No. 11-356V
Special Master Denise K. Vowell

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

Respondent proffers that, based on the evidence of record, petitioners should be awarded \$250,000.00. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioners agree.

II. Form of the Award

The parties recommend that the compensation provided to petitioners should be made as lump sum payment of \$250,000.00, in the form of a check payable to petitioners.

Respectfully submitted,

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Assistant Attorney General

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Acting Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Acting Deputy Director
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s/ LARA A. ENGLUND
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DATED: October 26, 2011