

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 03-1845V

Filed: January 10, 2012

Reissued as Redacted: January 25, 2012

Not to be Published

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EDGAR VILLARREAL and  
MANUELA G. JIMENEZ, parents of  
E.M.V., a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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Autism; Petitioners' Motion for a  
Decision Dismissing the Insufficient  
Petition; Proof of Causation; Vaccine  
Act Entitlement; Denial Without Hearing

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### DECISION<sup>1</sup>

On August 4, 2003, petitioners filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),<sup>2</sup> alleging that various vaccinations injured E.M.V. The information in the record, however, does not show entitlement to an award under the Program.

On January 9, 2012, petitioners moved for a decision on the merits of the petition, acknowledging that insufficient evidence exists to demonstrate entitlement to compensation.

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<sup>1</sup> When this decision was originally issued, petitioner was informed that the decision would be posted 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)). Petitioner was also notified that they could seek redaction pursuant to § 300aa-12(d)(4)(B); Vaccine Rule 18(b). Petitioner made a timely request for redaction and this decision is being reissued with the name of the minor child redacted to initials.

<sup>2</sup> 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.

To receive compensation under the Program, petitioners must prove either 1) that E.M.V. suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of E.M.V.’s vaccinations, or 2) that E.M.V. suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that E.M.V. suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that E.M.V.’s alleged injury was vaccine-caused.

Under the Act, petitioners may not be given a Program award based solely on the petitioners’ claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because there are insufficient medical records supporting petitioners’ claim, a medical opinion must be offered in support. Petitioners, however, have offered no such opinion.

Accordingly, it is clear from the record in this case that petitioners have failed to demonstrate either that E.M.V. suffered a “Table Injury” or that E.M.V.’s 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