In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS
No. 04-0466V
Filed: August 2, 2010
Not to be Published

DHARMA CALLENS, a minor, by her parents and natural guardians, ADAM CALLENS and JANET CALLENS, Petitioners, v. SECRETARY OF HEALTH AND HUMAN SERVICES Respondent.	Dismissal; Failure to Follow Court Orders; Failure to Submit Supporting Medical Records or Expert Opinion; Failure to Prosecute

DECISION[1]

The above-named petitioners filed a Short-Form Autism Petition For Vaccine Compensation on March 22, 2004. Thereafter, petitioners failed to file medical records and/or a "Statement of Compliance with Phase One Medical Records Production" as ordered by the undersigned on November 14, 2008, July 27, 2009, and November 10, 2009.

The undersigned repeatedly warned petitioners that noncompliance with court Orders would not be tolerated and could lead to dismissal of petitioners' claim. See Order filed July 27,

[1] Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends 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, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

2009; Order filed November 10, 2009. Further, the undersigned warned petitioners in the court's November 10, 2009 Order that "failure to follow court Orders, as well as failure to file medical records, or an expert medical opinion shall result in dismissal of petitioners' claim." Order filed November 10, 2009 citing Tsekouras v. Sec'y of HHS, 26 Cl. Ct. 439 (1992), 991 F.2d 810 (Fed. Cir. 1993) aff'd per curiam without opin.; Sapharas v. Sec'y of HHS, 35 Fed. Cl. 503 (1996).

Petitioners have failed to file any medical records or the opinion of an expert to support petitioners' claim in the instant case.[2] Additionally, petitioners have failed to respond to any of the court's Orders in any manner in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioners' claim for failure to prosecute or comply with the Vaccine Rules, or the court's Orders. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

/s/ Denise K. Vowell
Denise K. Vowell
Special Master

[2] The Vaccine Act provides that a special master cannot find that a petitioner has proven her case by a preponderance of the evidence based upon "the claims of a petitioner alone, unsubstantiated by medical records or medical opinion." 42 U.S.C. § 300aa-13 (a). Petitioners' failure to file medical records has prevented the undersigned from addressing any aspect of the merits of petitioners' claim.