

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

**No. 09-608V**

**Filed: June 18, 2010**

**Not to be Published**

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MARANDA DAWN CRANE, as parent  
and natural guardian of Karley Dean  
Crane,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Decision on the Record;  
Rotavirus Vaccine;  
Intussusception; Failure  
to Produce an Expert Report

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**DECISION<sup>1</sup>**

**Vowell**, Special Master:

On September 15, 2009, Maranda Dawn Crane [“petitioner”] filed a petition in the National Vaccine Injury Compensation Program [“the Program”],<sup>2</sup> on behalf of her daughter Karley Dean Crane [“Karley”], alleging that Karley received a rotavirus vaccine on September 14, 2006 and November 30, 2006, and that those vaccinations caused intussusception, small bowel and intestinal obstruction, and sequelae. Petition at ¶¶ 3-4. The information in the record does not show entitlement to an award under the Program.

On June 18, 2010, petitioner filed a Motion for Judgment on the Record [“Pet. Mot.”]. Petitioner asserts in the motion that an investigation of the facts and science

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims’ website, in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, 116 Stat. 2899, 2913 (Dec. 17, 2002). 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.

<sup>2</sup> 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).

supporting her claim has demonstrated that she will be unable to prove entitlement to compensation in the Program. Pet. Mot. at ¶1.

To receive compensation under the Program, petitioner must prove either 1) that Karley suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) that Karley 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 Karley suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Karley’s alleged injury was vaccine-caused.

A petitioner may not receive 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. § 300aa-13(a)(1). In this case, because there are insufficient medical records supporting petitioner’s claim, a reliable 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 has failed to demonstrate either that Karley 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.**<sup>3</sup>

**IT IS SO ORDERED.**

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

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<sup>3</sup> I do not resolve the issue, but note that respondent has reserved the right to challenge whether the jurisdictional prerequisites of the Vaccine Act have been met in this case. I further note that if petitioner elects to file a Petition for Fees and Costs pursuant to § 300aa-15(e), based on current case law petitioner will need to first establish proof of vaccination and the timely filing of the Petition for Vaccine Compensation, see § 300aa-16(a)(2) and 16(b), prior to any award for attorneys’ fees and costs being granted. See *Brice v. Sec’y, HHS*, 358 F.3d 865, 869 (2004) (citing *Martin v. Sec’y, HHS*, 62 F.3d 1403, 1406 (1995)).