

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF THE SPECIAL MASTERS
No. 02-1334V
Filed: September 14, 2010**

WILLIAM B. McALLISTER, parent of	*
David Edward McAllister, a minor,	*
	*
Petitioner,	*
	*
v.	*
	*
SECRETARY OF THE DEPARTMENT OF	*
HEALTH AND HUMAN SERVICES,	*
	*
Respondent.	*
	*

DECISION¹

VOWELL, Special Master:

The above-named petitioner filed a Petition For Vaccine Compensation on October 4, 2002. On June 6, 2008, and August 6, 2008, petitioner filed Phase I medical records² and a statement of compliance. On November 9, 2009, petitioner's counsel filed a motion to withdraw as attorney of record wherein he detailed petitioner's unresponsiveness to his efforts to maintain communication and to obtain the necessary records from him. On November 10, 2009, I granted petitioner's counsel's motion to withdraw as attorney of record. On November 17, 2009, I ordered petitioner, William B. McAllister, to contact the court within 60 days, and by no later than January 19, 2010, to indicate receipt of the order, update his contact information, and inform the court how he wishes to proceed with this case.

Petitioner failed to respond to the November 17, 2009, order. On January 27, 2010, I granted petitioner an additional thirty days, until February 26, 2010, to respond to the November 17, 2009, order. Petitioner was reminded at that time that continued failure to respond to court orders would result in dismissal of his petition. Petitioner failed to respond to that order as well. On March 16, 2010, I ordered petitioner to show

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, 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.

² These records are insufficient, on their own, to demonstrate causation in this case.

cause by April 15, 2010, why this case should not be dismissed for failure to prosecute. Petitioner failed to respond.

The undersigned warned petitioner that noncompliance with court orders would not be tolerated and could lead to dismissal of petitioner's claim. See Order filed Jan. 27, 2010; Order filed Mar. 16, 2010. Further, the undersigned warned petitioner that "[f]ailure to follow court orders, as well as failure to file medical records or an expert medical opinion, shall result in dismissal of petitioner's claim." Order filed Mar. 16, 2010 (citing *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b)).

Petitioner has failed to file sufficient medical records or the opinion of an expert to support petitioner's claim in the instant case. Additionally, petitioner has failed to respond to several of the court's orders in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioner's claim for failure to prosecute, failure to comply with the Vaccine Rules, and failure to comply with the court's orders. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Denise K. Vowell
Special Master