

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF THE SPECIAL MASTERS
No. 02-2072V
Filed: January 21, 2010**

MICHAEL SAMMONS, parent of *
CODY MICHAEL SAMMONS, 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 December 30, 2002. Thereafter, petitioner failed to file most of the medical records² and/or a “Statement of Compliance with Phase One Medical Records Production” as ordered by the undersigned on May 15, 2008. I granted petitioner’s attorney’s motion to withdraw from this case on August 20, 2009, and ordered petitioner to provide a status report to the court. Petitioner failed to respond to that order, and failed to respond to a subsequent order, issued October 27, 2009, to provide a status report. On December 8, 2009, I ordered petitioner to file medical records in this case or show cause by January 8, 2010, why this case should not be dismissed for failure to prosecute. Petitioner failed to respond to that order as well.

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

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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 Petitioner did file a list of Cody’s vaccinations as Exhibit 1 on May 6, 2009.

October 27, 2009; Order filed December 8, 2009. Further, the undersigned warned petitioner in the court's December 8, 2009 order, 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 December 8, 2009 (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.³ Additionally, petitioner has failed to respond to any 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

³ 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). Petitioner's failure to file medical records has prevented the undersigned from addressing any aspect of the merits of petitioner's claim.