

**OFFICE OF SPECIAL MASTERS**

No. 05-901V

Filed: June 15, 2006

Not for Publication

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RONALD BASS,

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Petitioner,

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Pro Se Petitioner; Order to Show Cause; Failure to State a Claim; 42 USC § 300aa-13(a)(1)(B), (b)

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v.

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SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,

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Respondent.

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*Ronald Bass, Pro Se, Green Brook, New Jersey.*

*Glenn A. MacLeod, United States Department of Justice, Washington, D.C., for respondent.*

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

**GOLKIEWICZ, Chief Special Master.**

On August 16, 2005, petitioner filed a petition with the United States Court of Federal Claims for injuries suffered while incarcerated in a state facility in the state of New Jersey. Among several claims, petitioner alleges a vaccine injury. The case was originally assigned to Judge Marian Blank Horn of the United States Court of Federal Claims. It was reassigned to the

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<sup>1</sup>Because this decision contains a reasoned explanation for the special master’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, as provided by Vaccine Rule 18(b), each party has fourteen (14) days within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and 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.

Office of Special Masters upon discovery of a possible vaccine claim in the petition.<sup>2</sup> The case was reassigned to the undersigned on August 23, 2005.

After a series of submissions from petitioner occurring for over a period of eight months, on May 12, 2006, the undersigned issued an “Order to Show Cause” for petitioner to show cause why his case should not be dismissed for lack of establishing a *prima facie* case. Order to Show Cause, filed May 12, 2006, at 7. More specifically, the undersigned stated that

[f]rom a legal standpoint, based on the record as it currently stands, the undersigned would find that petitioner has not established a *prima facie* case for compensation under the Vaccine Act. After reviewing all of the submissions of the petitioner, the undersigned tentatively finds that there is no evidence in the record supporting petitioner’s allegations that he received a vaccine covered by the Vaccine Act. In fact, there is evidence that calls into question petitioner’s allegations that he was forcefully injected with a vaccine as petitioner claims that he was injected with an unknown substance that he claims caused his alleged injuries.

Id.

On June 6, 2006, petitioner filed a “Response to the Special Master’s Order filed May 4, 2006 [hereinafter “June 6 Response”].”<sup>3</sup> In that response, petitioner stated that

Please note, the Plaintiff/Petitioner choose [sic] under 300aa-21(b) of title 42 USC to Remain before the “Court”, as the case may be, which is inseparable with Case No. 05-903. Also see attachment from the City of Newark Municipal Court, under the State of New Jersey Motor Vehicle Act of Title 39, etc.

Attached to the June 6 Response was a letter dated June 2, 2006, from Judge Shaka Taylor of the Municipal Court of the City of Newark addressed to the New Jersey Motor Vehicle Services

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<sup>2</sup>The statutory provisions governing the Vaccine Act are found at 42 U.S.C. §§300aa-10 to 300aa-34 (2003). Hereinafter, for ease of citation, all references will be to the relevant subsection of 42 U.S.C. §300aa.

<sup>3</sup>Petitioner is referring to an Order issued by the undersigned on May 4, 2006. The Order was issued to inform petitioner that the special master’s statutory time for issuing a decision had expired and that petitioner had thirty (30) days to opt-out of the Vaccine Program. § 21(b). Petitioner was directed to notify the court by no later than June 2, 2006 if he intended to opt-out of the Program. Since petitioner filed his response on June 6, 2006, four days beyond the thirty-day opt-out period, he is statutorily required to remain in the Program until a decision is issued.

Data Entry Unit.<sup>4</sup> The letter states that petitioner's driving privileges should be reinstated until further action by the Municipal Court.

On June 7, 2006, petitioner filed a letter addressed to Ms. Lisa DeFade, Chief Deputy Clerk of Court. In that letter, petitioner stated that

[o]n August 16, 2005, I filed a petition with the United States Court of Federal Claims for injuries suffered while incarcerated and false imprisonment; Among several other claims as of date. On August 21, 2005, I was wrongfully, as well as falsely, incarcerated under all forms of New Jersey's selective and malicious Prosecution, consistent with the Federal Tort Claims, contrary to U.S. Presidential Executive Order No. 12731 of October 17, 1990.

On April 7, 2006, the petitioner was release by the State of New Jersey Department of Corrections, Central Reception and Assignment Facility; However, [t]he petitioner was not release until May 6, 2006. The petitioner acknowledge the related case No. 05-903.<sup>5</sup>

On June 13, 2006<sup>6</sup>, petitioner filed another letter, dated June 7, 2006, to Ms. Lisa DeFade, Chief Deputy Clerk [hereinafter June 7 Letter]. In response to the Order to Show Cause filed on May 12, 2006, petitioner writes:

The Honorable Golkiewick [sic], Chief Special Master, stated, "In fact, there is evidence that calls into question petitioner's allegations that he was forcefully injected with a vaccine. . . [.]" [I]n addition to my injuries, Black Americans, can be held accountable for their reverse and adverse discrimination(s), which had a disproportionate impact on liberty and property rights, as well as upon my constitutional [dimension].

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<sup>4</sup>The letter was not numbered as an exhibit. For clarity of the record, this letter is deemed Petitioner's Exhibit 13.

<sup>5</sup>This docket number refers to an existing case where petitioner is *not* the petitioner of record. The undersigned is not aware of any other cases that the petitioner has filed in the United States Court of Federal Claims.

<sup>6</sup>The document was received by the Clerk's Office on June 9, 2006. Due to filing deficiencies, the document was filed by leave of the undersigned on June 13, 2006. This filing date is one day beyond the deadline to file a response to the Order to Show Cause. Due to the petitioner's *pro se* status, the undersigned has also considered the information contained therein in this Decision.

June 7 Letter at 2. Included in this filing are several more attachments consisting of 21 pages.<sup>7</sup> The undersigned has examined these submissions in their entirety and finds them to be of little relevance to the issue of vaccine injury. Included in these attachments, however, appears to be another statement regarding this case from petitioner. June 7 Letter at 12. Petitioner states that

Defendants again, attempted to eradicate (by means of a chemical solvent) me by incapacitation. New Jersey Operation Weed and Seed Policy of Unconstitutionality is to deprive a target suspect of their legal rights, ability, qualification, consistent with N.J.S.A. 26:2L-1 to 2L-9 and 21 CFR Section 314.104; which drugs has resulted in my Perpetual, cognitive and/or memory dysfunction; thus the medications typically requires careful medical management.

However, I was never given careful management, which chronic use has resulted in abuse, in my significant psychomotor dysfunction cognitive impairments including in memory. I have serious concerns regarding the effects of my central nervous system functions; Also their [sic] have been medical reports from some of the “detox center(s)

June 7 Letter at 12.

The Supreme Court has held that courts must construe the content of pro se filings liberally. Haines v. Kerner, 404 U.S. 519, 520-21 (1972). However, being a *pro se* litigant does not relieve the petitioner of his burden to fulfill the statutory requirements of the Vaccine Act.<sup>8</sup> Due to petitioner’s status as a *pro se* litigant, the undersigned provided the petitioner with multiple opportunities to fulfill his obligations under the Act. Even after being given these opportunities with explicit instructions as to how to satisfy the undersigned’s concerns<sup>9</sup>, petitioner has still failed to provide the undersigned with any documentation substantiating that he received a vaccine covered under the Act. In addition, as the undersigned pointed out in several orders, there is evidence calling into serious question whether petitioner received a covered vaccine. See December 15, 2005 Order at 4, Order to Show Cause at 5-7. The

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<sup>7</sup>Petitioner did not number the pages in this filing. For convenience, the undersigned is numbering the pages of this submission, with the June 7 Letter starting at page 1.

<sup>8</sup>See, e.g., Sapharas v. Secretary of Health and Human Services, 35 Fed. Cl. 503 (1996) (upholding special master’s dismissal of petition of *pro se* litigant due to failure to comply with orders as well as for failing to substantiate the claim.).

<sup>9</sup>See Orders dated October September 22, 2005, October 7, 2005, October 21, 2005, and December 15, 2005.

undersigned also provided the petitioner several opportunities to address this specific issue. See December 15, 2005 Order at 4-5, Order to Show Cause at 5-7.

Even after providing petitioner the above-described opportunities to establish that he received a covered vaccine, the undersigned again outlined the concerns regarding this case in the Order to Show Cause, as described above on page 2. In the three submissions that petitioner has made in response to that Order, petitioner has not provided any evidence demonstrating that he received a vaccine covered under the Act. Nor did petitioner provide any documentation of vaccination by a covered vaccine in these or any of his other numerous filings since September of 2005.

The undersigned may not make a finding for compensation under the Act based on petitioner's claims alone. § 13(a)(1)(B). Petitioner *is required* to provide supporting documentation in order to make a *prima facie* case for entitlement. § 13(b). Due to petitioner's repeated failures to satisfy the requirements for a *prima facie* case under the Vaccine Act, the undersigned is left with no option but to *dismiss* petitioner's claim. The Clerk is directed to enter judgment accordingly.

**IT IS SO ORDERED.**

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Gary J. Golkiewicz  
Chief Special Master