

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 09-0360V
Filed: September 20, 2011
(Not to be published)

GILBERT JOHNSON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

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Petitioner’s Motion for a Ruling on the Record; Insufficient Proof of Causation; Vaccine Act Entitlement; Denial Without Hearing

DECISION¹

On June 4, 2009, the petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”),² alleging that petitioner suffered from Guillain-Barré syndrome as the result of an influenza vaccination that he had received between approximately September 23 and October 1, 2008. Petitioner filed extensive medical records in support of his claim on June 22, 2009 and August 27, 2010.

On September 9, 2011, petitioner filed a “Motion for a Final Decision on the Record” which acknowledged that petitioner “will not be filing an expert report.” The information on the record does not show entitlement to an award under the Program.

To receive compensation under the Program, the petitioner must prove either: 1) that he suffered a “Table Injury”--*i.e.*, an injury falling within the Vaccine Injury Table--corresponding

¹Because this document contains a reasoned explanation for my action in this case, I intend to post this order on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, 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 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, this entire document will be available to the public. *Id.*

² The statutory provisions governing the National Vaccine Injury Compensation Program are found in 42 U.S.C. § 300-10 *et seq.* (2006 ed.).

to one of his vaccinations, or 2) that he suffered an injury that was actually caused by a vaccine. *See* 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). In my examination of the filed medical records, however, I did not find in the record any evidence that petitioner suffered a “Table Injury.” Further, the records do not contain a medical expert’s opinion or any other evidence indicating that petitioner’s condition was vaccine-caused. No physician expressed such an opinion in the records that I reviewed, and the petitioner has not pointed to any place in the records where any physician stated such an opinion.

In the Motion filed on September 9, 2011, petitioner requested that I rule upon the record as it now stands. Accordingly, I will now rule upon the record.

I am, of course, sympathetic to the fact that Gilbert Johnson suffers from a very unfortunate medical condition. However, under the law I can authorize compensation only if a medical condition or injury either falls within one of the “Table Injury” categories, or is shown by medical records or competent medical opinion to be vaccine-caused. No such proof exists in the record before me. Accordingly, it is clear from the record in this case that the petitioner has not demonstrated either that he suffered a “Table Injury” or that his condition was “actually caused” by a vaccination. Therefore, I have no choice but to hereby DENY this claim. In the absence of a timely-filed motion for review of this decision (see Appendix B to the Rules of the Court), the Clerk shall enter judgment in accord with this decision.

/s/ George L. Hastings, Jr.

George L. Hastings, Jr.
Special Master