

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-1657V

(Filed: February 18, 2009)

Not to be published¹

KARI LAMBERT, as legal representative
of CONOR LAMBERT, a minor,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Decision on Written Record
in Autism Case

DECISION²

On June 30, 2003, the petitioner filed a Short-Form Autism Petition seeking compensation under the National Vaccine Injury Compensation Program (“the Program”). The petition alleges, by use of the special “Short-Form” developed for use in the context of the Omnibus Autism Proceeding, in effect that various vaccinations injured Conor and caused his

¹This document will not be sent to electronic publishers as a formally “published” opinion. However, because this document contains a reasoned explanation for my action in this case, I intend to post this document 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. Therefore, 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 in substance and is privileged or confidential; or (2) that includes medical files or 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. See also* 42 U.S.C. § 300aa-12(d)(4)(B) (2000).

²This document constitutes my final “decision” in this case, pursuant to 42 U.S.C. § 300aa-12(d)(3)(A) (2000). Unless a motion for review of this decision is filed within 30 days, the Clerk of this Court shall enter judgment in accord with this decision.

autism. The information on the record, however, does not show entitlement to an award under the Program.³

To receive compensation under the Program, the petitioner must prove either: 1) that Conor suffered a “Table Injury”--*i.e.*, an injury falling within the Vaccine Injury Table--corresponding to one of his vaccinations, or 2) that Conor suffered an injury that was actually caused by a vaccine. *See* 42 U.S.C. §§ 300aa-13(a)(1)(A), 300aa-11(c)(1) (2000). My examination of the filed medical records, however, did not uncover any evidence that Conor suffered a “Table Injury.” Further, the records do not contain a medical expert’s opinion or any other evidence indicating that Conor’s autism was vaccine-caused.

Under the statute, a petitioner may not be given 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. 42 U.S.C. § 300aa-13(a)(1) (2000). Here, because the medical records do not seem to support the petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

In a motion filed December 8, 2008, 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 Conor 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 failed to demonstrate either that Conor suffered a “Table Injury,” or that his autism 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.

George L. Hastings, Jr.
Special Master

³The statutory provisions governing the National Vaccine Injury Compensation Program are found in 42 U.S.C. § 300aa-10 *et seq.* (2000).