

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-1622V

Filed: October 2, 2008

Not To Be Published

JONATHAN and BOBBIE WALLS,
parents of
JESSICA WALLS, a Minor

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

Petitioners' Motion for a Decision
on the Record; Untimely Filing

DECISION¹

On July 1, 2003 petitioners filed a Short-Form Autism Petition For Vaccine Compensation ("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 Jessica. The information in the record, however, does not show entitlement to an award under the Program.

On July 14, 2008, petitioners filed a Motion for a Decision Dismissing their Petition. Petitioner asserts "[a]n investigation of the facts and science supporting this case has demonstrated to Petitioners that, under the current law controlling their claim, they will be unable

¹Because this decision contains a reasoned explanation for the undersigned'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). 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, "the entire" decision will be available to the public. Id.

to prove their claim was timely filed² and will thus be unable to prove that they are entitled to compensation in the Vaccine Program.” Petitioner’s Motion for a Decision Dismissing their Petition at 1. Petitioners request the undersigned dismiss the above-captioned petition. Id. at 2.

Accordingly, the undersigned finds that petitioner’s claim must be dismissed as petitioner has not proved by a preponderance of the evidence that the petition was filed within “36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury” as required by the Vaccine Act. **Petitioner’s claim is dismissed. The Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

s/George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master

²In relevant part, the Vaccine Act provides “in the case of”

a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a vaccine-related injury occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury

42 U.S.C. § 300aa-16(a)(2).