

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

HEIDI BRAZUS, parent of *
ANNALISE BRAZUS, a minor *

Petitioner, *

No. 08-295V
Special Master Christian J. Moran

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Filed: June 9, 2009

Respondent. *

failure to prosecute; show cause;
dismissal.

UNPUBLISHED DECISION DISMISSING PETITION*

Pursuant to Vaccine Rule 21(b) and (c), Heidi Brazus’s petition, on behalf of her daughter Annalise, and filed on April 21, 2008, is hereby dismissed for failure to prosecute.

On April 21, 2008, Heidi Brazus filed a petition under the National Vaccine Injury Act, 42 U.S.C. §300a-10 *et. seq.*(2006), on behalf of her daughter Annalise Brazus alleging that Annalise developed neurological injuries as a result of receiving a diphtheria, tetanus, and acellular pertussis (“DTaP”) vaccination on April 19, 2005. No medical records were filed with the petition.

* Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, a party has 14 days to identify and to move to delete such information before the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access. 42 U.S.C. § 300aa-12(d)(4); Vaccine Rule 18(b).

On June 11, 2008, an initial status conference was held with Ms. Brazus and counsel for respondent. By order dated June 12, 2008, Ms. Brazus was ordered to file medical records to support her petition. During this telephone status conference, a second status conference was set for August 26, 2008, to check on Ms. Brazus's progress in obtaining the medical records.

Ms. Brazus was not available for the status conference scheduled for August 26, 2008, nor were any medical records filed as of that date. Despite repeated attempts to reach Ms. Brazus to reschedule the status conference, Ms. Brazus did not return any of those calls.

On February 10, 2009, respondent filed a motion for an order to show cause why Ms. Brazus's petition should not be dismissed for failure to comply with the Court's June 12, 2008 order, and requested a dismissal of her petition. Ms. Brazus did not file a response to this motion.

On February 23, 2009, this court issued an order to show cause why this petition should not be dismissed for failure to prosecute. The February 23, 2009 order directed Ms. Brazus to respond by March 23, 2009. To date, the court has received no further communication from Ms. Brazus regarding this case. Accordingly, this petition is DISMISSED pursuant to Vaccine Rule 21 for failure to prosecute. See Tsekouras v. Sec'y of Health & Human Servs., 26 Cl. Ct. 439 (1992), aff'd, 991 F.2d 810 (Fed. Cir. 1993) (table) (affirming special master's dismissal of petition for failure to prosecute).

Therefore, in the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Christian J. Moran
Special Master