

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

No. 11-726V

Filed: August 13, 2012

AMANDA K. MOMBERG,

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Petitioner’s Motion for a Decision;
Dismissing the Insufficient Petition;
Proof of Causation; Vaccine Act
Entitlement; Denial Without Hearing

DECISION¹

Vowell, Special Master:

On November 1, 2011, Amanda Momberg [“petitioner”] filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the “Vaccine Act” or “Program”].

On January 6, 2012, I ordered petitioner to file an expert report by April 5, 2012. In April 2012, petitioner requested and was granted an extension of time, until June 8, 2012, to file her expert report. On May 30, 2012, petitioner filed a second motion for extension of time. I granted her motion and extended her expert report deadline to July 20, 2012.

On July 19, 2012, petitioner filed a third motion for extension of time. On July 20, 2012, I granted petitioner’s motion and ordered petitioner to file her expert report by no later than August 3, 2012. The motion also requested a status conference, which was

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims’ website, in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 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, that satisfies the criteria in § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

held on July 24, 2012. On August 3, 2012, petitioner moved for a decision on the merits of the petition.³

To receive compensation under the Program, petitioner must prove either 1) that she suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) that she suffered an injury that was actually caused by a vaccine. See §§ 13(a)(1)(A) and 11(c)(1). An examination of the record did not uncover any evidence that petitioner suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that petitioner’s alleged injury was vaccine-caused.

Under the Act, petitioners may not be given a Program award based solely on the petitioners’ claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because there are insufficient medical records supporting petitioner’s claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

Accordingly, it is clear from the record in this case that petitioner failed to demonstrate either that she suffered a “Table Injury” or that her injuries were “actually caused” by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

/s Denise K. Vowell
Denise K. Vowell
Special Master

³ Although petitioner identified her motion on the docket as a motion to voluntarily dismiss pursuant to rule 21(b), which would result in an order concluding proceeding, based on the text of her filing and her counsel’s representations during the July 24, 2012 status conference I am treating her motion as a motion to dismiss.