

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 02-1154V

Filed: January 25, 2011

Not to be Published

ALEX RIOS OROZCO and
YOLANDA GARCIA OROZCO,
parents of,
ALEX CHRISTOPHER OROZCO, JR.,
a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

Dismissal; Failure to Follow Court
Orders; Failure to Submit Supporting
Medical Records or Expert Opinion;
Failure to Prosecute

The above-named petitioners filed a Short-Form Autism Petition for Vaccine Compensation on September 09, 2002. Thereafter, petitioners failed to file medical records and/or a “Statement of Compliance with Phase One Medical Records Production” as ordered by the undersigned on February 15, 2008, January 15, 2009, and December 04, 2009.

The undersigned repeatedly warned petitioners that noncompliance with court Orders would not be tolerated and could lead to dismissal of petitioners’ claim. See

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

Order filed January 15, 2009; Order filed December 04, 2009. Further, the undersigned warned petitioners in the court's December 4, 2009 Order, that "failure to follow court Orders, as well as failure to file medical records, or an expert medical opinion shall result in dismissal of petitioner's claim." Order filed December 04, 2009 citing Tsekouras v. Sec'y of HHS, 26 Cl. Ct. 439 (1992), 991 F.2d 810 (Fed. Cir. 1993) aff'd per curiam without opin; Sapharas v. Sec'y of HHS, 35 Fed. Cl. 503 (1996).

Petitioners have failed to file any medical records or the opinion of an expert to support petitioners' claim in the instant case.² Additionally, petitioners have failed to respond to any of the court's Orders in any manner in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioners' claim for failure to prosecute or comply with the Vaccine Rules, or the court's Orders. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Denise K. Vowell
Special Master

² The Vaccine Act provides that a special master cannot find that a petitioner has proven her case by a preponderance of the evidence based upon "the claims of a petitioner alone, unsubstantiated by medical records or medical opinion." 42 U.S.C. § 300aa-13 (a). Petitioner's failure to file medical records has prevented the undersigned from addressing any aspect of the merits of petitioner's claim.