

On June 10, 2008, petitioners filed a Motion for a Decision on the Record.³ Petitioners assert they “are aware that the evidence of record in this case does not support a finding that Emily is entitled to compensation in the Vaccine Program.” Petitioners’ Motion for a Decision on the Record at 1. Accordingly, petitioners request the undersigned dismiss the above-captioned petition. Id. Respondent’s counsel indicated to the court on June 18, 2008 that respondent has no objection to petitioners’ motion.

To receive compensation under the National Vaccine Injury Compensation Program (hereinafter “the Program”), petitioners must prove either 1) that Emily suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of her vaccinations, or 2) that Emily suffered an injury that was actually caused by a vaccine. See 42 U.S.C. §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). The undersigned’s examination of the record, did not uncover any evidence that Emily suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Emily’s autism was vaccine-caused.

Under the Act, 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). In this case, because there are no medical records supporting petitioner’s claim, a medical opinion must be offered in support. Petitioners, however, have offered no such opinion.

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

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master

³ The undersigned notes petitioners’ Motion was filed electronically and docketed by petitioners’ counsel as a “Motion to Voluntarily Dismiss pursuant to Rule 41(a).” The undersigned’s office conducted a status conference with the parties wherein petitioner’s counsel indicated the Motion was filed incorrectly and he was not seeking relief pursuant to RCFC 41(a), but rather was seeking a “dismissal decision” through a Motion for Decision on the Record.