

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-0395V

Filed: May 8, 2009

Not To Be Published

JAYNE DUNCAN COZIC, Parent of *
BENJAMIN COZIC, a Minor *

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Autism; Statute of Limitations;
Untimely Filing; Motion to Dismiss

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Petitioner, *

*

v. *

*

SECRETARY OF HEALTH AND *
HUMAN SERVICES *

*

Respondent. *

*

Roger Calvin Wilson, Atlanta, GA, for petitioner.

Linda S. Renzi, United States Department of Justice, Washington, DC, for respondent.

DECISION¹

The above-named petitioner filed a Short-Form Autism Petition For Vaccine Compensation on March 12, 2004. Respondent filed a Motion to Dismiss on November 4,

¹ Because 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’ 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.

2008, asking that the undersigned dismiss this petition because it was untimely filed.² Petitioner filed a Response to Motion to Dismiss on March 31, 2009, stating that petitioner “does not wish oppose that motion [Respondent’s Motion to Dismiss].” Petitioner’s Response to Motion to Dismiss at one.

Respondent’s Motion to Dismiss is **GRANTED**. 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.³ The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Patricia Campbell-Smith
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).

³ The undersigned notes the Decision filed in this matter on April 7, 2009 was vacated due to a typographical error which reflected the incorrect date of filing.