

that R.T. developed a rash and fever two-days following the administration of the vaccine and began not using his hands properly about a week after receiving the vaccine. *Id.* at 2.

After the claim's initiation Petitioner filed more medical records and exhibits to supplement the records and affidavit filed with his Petition. Respondent reviewed Petitioner's filings and filed a Rule 4(c) Report, maintaining that Petitioner had not met his burden of proof, and therefore was not entitled to compensation. *See* Resp.'s Rule 4(c) Report, filed Aug. 31, 2017 (ECF No. 11). Specifically, Respondent argued that Petitioner had: (1) failed to establish causation in fact; and (2) failed to put forth a reliable scientific theory explaining how R.T.'s injury was caused by the tetanus-diphtheria vaccine. *Id.* at 6.

Later, Petitioner and Respondent traded expert reports and supplemental expert reports. (ECF Nos. 13-2, 14, 21, 22-3). During this time, on May 9, 2018, an entitlement hearing was scheduled on October 15, 2019, and the parties were directed to file prehearing briefs. (ECF No. 17). Both parties filed their prehearing briefs in July 2019. (ECF Nos. 22, 23).

On October 8, 2019, a week before the scheduled entitlement hearing, Petitioner's counsel contacted my chambers and indicated that he now wanted to dismiss his claim. A status conference with the parties was held the same day, and Petitioner reiterated his desire to dismiss his claim and forgo the scheduled entitlement hearing. I instructed Petitioner that he should file a motion for decision dismissing his claim before the end of the week.

Now, Petitioner filed a motion for a decision dismissing his petition. Mot. to Dismiss, filed October 8, 2019 (ECF No. 25). In it, Petitioner explains—as he had done in the earlier status conference—that an investigation of the facts and science demonstrated to Petitioner that he would be unable to prove he was entitled to compensation in the Vaccine Program. *Id.* at 1. Petitioner acknowledged that under such circumstances it would be unreasonable to waste the resources of the court, Respondent, and Vaccine Program. *Id.* Petitioner also stated that he does intend to protect his rights to file a civil action in the future—and pursuant to Section 300-21(a)(2), he intends to reject the Vaccine Program Judgment against him and elect to file a civil action. *Id.* at 2. Respondent has not lodged an objection to the claim's dismissal.

Under the Vaccine Act, a petitioner may not receive a Vaccine Program award based solely on his claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. Section 13(a)(1). In this case, there is insufficient evidence in the record for Petitioner to meet his burden of proof. Therefore, without an entitlement hearing, Petitioner's claim cannot succeed and must be dismissed. Section 11(c)(1)(A).

Accordingly, I hereby **DISMISS** Petitioner's case. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of this decision.³

IT IS SO ORDERED.

s/ Brian H. Corcoran

Brian H. Corcoran

Chief Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment if (jointly or separately) they file notices renouncing their right to seek review.