NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

W. J., BY HIS PARENTS AND LEGAL GUARDIANS, R.J. AND A.J.,
Petitioner-Appellant

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,
Respondent-Appellee

2022-2119

Appeal from the United States Court of Federal Claims in No. 1:21-vv-01342-KCD, Judge Kathryn C. Davis.

SUA SPONTE

Before LOURIE, DYK, and STARK, *Circuit Judges.*

PER CURIAM

O R D E R

After considering the parties' submissions and oral argument the court finds it appropriate to require additional briefing in the above captioned appeal.

Accordingly,

IT IS ORDERED THAT:

(1) On or before October 20, 2023, the appointed Amicus Curiae, Angela Oliver of Haynes and Boone, LLP ("Amicus"), and the Secretary of Health and Human Services ("Secretary") shall each submit a supplemental brief, not to exceed 20 pages, addressing:

   a. Whether parents may lawfully represent their minor child *pro se* in asserting a claim under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 *et seq.* (the "Vaccine Act");

   b. Whether, in this case, the Court of Federal Claims and the Special Master engaged in an equitable tolling analysis that was "based on a consideration of all relevant facts and circumstances," *K.G. v. Sec'y of Health & Hum. Services*, 951 F.3d 1374, 1382 (Fed. Cir. 2020), including W.J.'s parents' *pro se* status; and

   c. Whether 28 U.S.C. § 2501, which provides "[a] petition on the claim of a person under legal disability . . . at the time the claim accrues may be filed within three years after the disability ceases," applies to claims brought under the Vaccine Act.

(2) On or before November 3, 2023, Amicus and the Secretary shall each submit a responsive brief, not to exceed 10 pages.

(3) On the same dates set forth above, W.J., by his parents, may file briefs of the lengths given above and addressing the same questions listed in paragraph 1.

FOR THE COURT

September 27, 2023
Date

Jarrett B. Perlow
Clerk of Court