

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**HOURIA HRIECHE, INDIVIDUALLY AND AS NEXT
FRIEND OF, BRIANNA LOPEZ, A MINOR,**
Petitioners-Appellants,

v.

**SECRETARY OF HEALTH AND HUMAN
SERVICES,**
Respondent-Appellee.

2012-5153

Appeal from the United States Court of Federal
Claims in case no. 03-VV-1483, Chief Special Master
Patricia E. Campbell-Smith.

ON MOTION

Before NEWMAN, LOURIE, and REYNA, *Circuit Judges.*
PER CURIAM.

O R D E R

The Secretary of Health and Human Services (Secretary) moves to dismiss this appeal.

Brianna Lopez was born on May 8, 1998, and received vaccinations between May 21, 1998 and April 8, 2004. The first symptom or manifestation of onset of her alleged vaccine-related injury occurred on or about December 29, 1999. On June 12, 2003, Houria Hrieche filed a petition for compensation under the Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (Vaccine Act) on behalf of Brianna.

On May 31, 2012, the Chief Special Master issued a decision finding that the claim was untimely filed. The Chief Special Master's decision noted that the Vaccine Act requires a claim be 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. And because Hrieche filed her petition outside of that time period, the claim was dismissed.

After the 30-day period prescribed for filing a motion for review by the United States Court of Federal Claims passed, the clerk of that court entered judgment on July 3, 2012. Hrieche's notice of appeal was received on September 20, 2012.

It is well settled that under the Vaccine Act if a party does not timely appeal from an adverse ruling of the special master that party has waived appeal to both the United States Court of Federal Claims and this court. *Grimes v. Dep't of Health & Human Servs.*, 988 F.2d 1196, 1198 (Fed. Cir. 1993) ("If a party does not comply with the thirty-day limit, the clerk's entry of judgment ends the matter."); see also *Mahaffey v. Sec'y of Health & Human Servs.*, 368 F.3d 1378, 1380-82 (Fed. Cir. 2004). Because Hrieche did not file a timely motion for review in the Court

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of Federal Claims, she has waived appeal to both this court and the United States Court of Federal Claims.¹

Accordingly,

IT IS ORDERED THAT:

- (1) The Secretary's motion is granted. The appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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ISSUED AS A MANDATE: March 6, 2013

¹ The Secretary also correctly points out that even if Hrieche could appeal to this court, her appeal would be untimely because it was not filed within 60 days from the date of entry of judgment in the Court of Federal Claims. We agree. See Fed. R. App. P. 4(a)(1), *Bowles v. Russell*, 551 U.S. 205 (2007).