

NOTE: This disposition is nonprecedential.

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

**ADRIENNE FALZON, AS LEGAL
REPRESENTATIVE OF AND ADMINISTRATOR OF
THE ESTATE OF PAUL GIACCIO,**
Petitioner-Appellant

v.

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

2023-1659

Appeal from the United States Court of Federal Claims
in No. 1:21-vv-01082-EMR, Judge Eleni M. Roumel.

Decided: July 15, 2024

DAVID GREGORY ROGERS, Rogers, Hofrichter & Karrh,
LLC, Fayetteville, GA, argued for petitioner-appellant.

VORIS EDWARD JOHNSON, JR., Torts Branch, Civil Division,
United States Department of Justice, Washington,
DC, argued for respondent-appellee. Also represented by
BRIAN M. BOYNTON, C. SALVATORE D'ALESSIO, TRACI
PATTON, HEATHER LYNN PEARLMAN.

Before MOORE, *Chief Judge*, LOURIE and STARK, *Circuit Judges*.

MOORE, *Chief Judge*.

Petitioner Adrienne Falzon, legal representative and administrator of the estate of Paul Giaccio, appeals a decision from the United States Court of Federal Claims sustaining a special master's dismissal of her Petition for Compensation pursuant to 42 U.S.C. § 300aa-10 *et seq.* as time barred. A petition was required to be filed within 24 months of Mr. Giaccio's death. 42 U.S.C. § 300aa-16(a)(3). Petitioner filed 119 days after the deadline. Petitioner argued equitable tolling should apply for various periods of time, which would render the petition timely. While we sympathize with Petitioner and Petitioner's counsel, even crediting Petitioner with equitable tolling for the illness of counsel and counsel's father, we nonetheless agree with the Court of Federal Claims that Petitioner has not established circumstances warranting equitable tolling for the required 119 days to make the petition timely. We affirm.

AFFIRMED

COSTS

No costs.