

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

Syllabus

SHALALA, SECRETARY OF HEALTH AND HUMAN SERVICES *v.* WHITECOTTON ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 94-372. Argued February 28, 1995—Decided April 18, 1995

Respondents, Margaret Whitecotton and her parents, filed a claim for compensation under the National Childhood Vaccine Injury Act, alleging that Margaret had suffered encephalopathy as a result of her vaccination against diphtheria, pertussis, and tetanus (DPT). Under the Act, a claimant who, like Margaret, does not attempt to prove actual causation must make out a prima facie case by showing that "the first symptom or manifestation of the onset . . . of any . . . [listed] condition . . . occurred within the time period after vaccine administration set forth in the Vaccine Injury Table." 42 U. S. C. §300aa-11(c)(1)(C) (i). That table specifies a 3-day period for encephalopathy following a DPT vaccination. §300aa-14(a). The special master ruled that Margaret had failed to make out a prima facie case, finding, *inter alia*, that by the time she received her vaccination she was "clearly microcephalic," that this condition evidenced pre-existing encephalopathy, and that, accordingly, "the first symptom or manifestation" of her condition's onset had occurred before her vaccination and the 3-day table period. The Court of Federal Claims affirmed, but the Court of Appeals for the Federal Circuit reversed, holding, among other things, that a claimant satisfies the table requirements whenever she shows that any symptom or manifestation of a listed condition occurred within the table time period, even if there was evidence of the condition before the vaccination.

*Held:* A claimant who shows that she experienced symptoms of an injury after receiving a vaccination does not make out a prima facie case for compensation under the Act where the evidence fails to indicate that she had no symptoms of that injury before the vaccination. The Court of Appeals' assertion that the Act does not "expressly state" that a claimant relying

on the table must show that the child sustained no injury prior to her vaccination—*i.e.*, that the first symptom of the injury occurred after vaccination—simply does not square with §300aa-11(c)(1)(C)(i)'s plain language. If a symptom or manifestation of a table injury has occurred before the vaccination, a symptom or manifestation thereafter cannot be the first, or signal the injury's onset. There cannot be two first symptoms or onsets of the same injury. Thus, a demonstration that the claimant experienced symptoms of an injury during the table period, while necessary, is insufficient to make out a *prima facie* case. The claimant must also show that no evidence of the injury appeared before the vaccination. The Court of Appeals misread language in §§300aa-14(a), 300aa-14(b)(2), and 300aa-13(a)(2)(B) in coming to the contrary conclusion. Pp. 5–7.

17 F. 3d 374, reversed and remanded.

SOUTER, J., delivered the opinion for a unanimous Court. O'CONNOR, J., filed a concurring opinion, in which BREYER, J., joined.