

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MELVIN A. PETRUS	:	CIVIL ACTION
	:	
v.	:	
	:	
U.S. GOVERNMENT	:	NO. 16-53

MEMORANDUM

Savage, J.

February 25, 2020

In this action brought under the Federal Tort Claims Act, 28 U.S.C. § 2679, plaintiff Melvin Petrus alleges that he suffered a rash after he was administered flu and shingles vaccines at the Veterans Administration facility. He candidly avers that a biopsy did not identify the vaccines as the cause of his rash. Nevertheless, without any basis to connect the rash to any act of the government, he asserts a claim for strict liability.

The FTCA waives the United States' sovereign immunity for negligence. 28 U.S.C. § 2674. It does not for strict liability. *Ward v. United States*, 471 F.2d 667, 670 (3d Cir. 1973) (citing *Laird v. Helms*, 406 U.S. 797 (1972)). The government is not a guarantor of the plaintiff's health and safety. The FTCA precludes imposition of liability where there is no negligence. *Id.* Thus, in the absence of any negligence, the FTCA does not waive immunity.