

A Terri Schiavo Timeline

Key dates in the case of Terri Schiavo, who has been at the center of a protracted legal battle between her husband and parents over the husband's attempts to remove her feeding tube. (This timeline was adapted from a timeline produced by Kathy Cerminara of Nova Southeastern University Shepard Broad Law Center and Kenneth Goodman of the University of Miami Ethics Programs and found at www.miami.edu/ethics2/schiavo/timeline.htm on April 1, 2005, and an Associated Press Release and found on the WFOR—Channel 4—Miami-Fort Lauderdale website on April 1, 2005.)

1963

-- Dec. 3: Theresa (Terri) Marie Schindler is born. She grew up in a suburb outside Philadelphia, Pennsylvania. Her father owned a heavy equipment business.



Figure 1. Infant Terri Schiavo.



Figure 2. Young Bobby Schindler with his older sister Terri.



Figure 3. Terri Schindler as a young child at Christmas.



Figure 4. Terri Schindler, high school graduate.

1984

-- Nov.: Terri and Michael Schiavo marry.



Figure 5. Terri and Michael Schiavo on their wedding day.



Figure 6. The Schiavos as a couple before 1990.



Figure 7. Terri Schiavo before 1990.



Figure 8. Terri Schiavo before 1990.

1990

-- Feb. 25: Terri Schiavo collapses in her home. Doctors believe a potassium imbalance caused her heart to temporarily stop, cutting off oxygen to her brain. She is taken to the Humana Northside Hospital. To support her feeding and hydration, a percutaneous endoscopic gastrostomy (PEG) tube is placed.

-- May 12: Terri is discharged from the hospital and taken to the College Park skilled care and rehabilitation facility.



Figure 9. Terri Schiavo shortly after the collapse in a rehabilitation facility.

- June 18: Court appoints Michael Schiavo as guardian; Terri's parents do not object.
- June 30: Terri is transferred to Bayfront Hospital for further rehabilitation efforts.
- Sept.: Terri's family brings her home, but three weeks later they readmit her to the College Park facility because the family is "overwhelmed by Terri's care needs."
- Nov.: Michael takes Terri to California for an experimental "brain stimulator" treatment, an experimental "thalamic stimulator implant" in her brain.

1991

- Jan.: The Schiavos return to Florida. Terri is moved to the Mediplex Rehabilitation Center in Brandon where she receives 24-hour care.
- July: Terri is transferred to Sable Palms skilled care facility where she receives continued neurological testing and regular and aggressive speech/occupational therapy through 1994.

1992

- May: Michael stops living with Terri's parents, Robert and Mary Schindler.
- Aug.: Terri Schiavo is awarded \$250,000 in an out-of-court medical malpractice settlement with one of her physicians.
- Nov.: Terri's husband, Michael, wins a malpractice suit that accused doctors of misdiagnosing his wife; jury awards more than more than \$750,000 for her care (placed in a trust), Michael receives an additional \$300,000 for loss of consortium.

1993

- Feb. 14: Terri Schiavo's parents, Bob and Mary Schindler, have a falling out with Michael over the malpractice suit money and Terri's care.
- July 29: Bob and Mary Schindler file petition to have Michael Schiavo removed as Terri's guardian. The case is later dismissed.



Figure 10. The Schiavos around 1998.

1994

?—New York Times Report—Terri is diagnosed with a urinary tract infection; Michael elects not to treat it—a decision supported by physicians.

1997

?—New York Times Report—After his mother’s death, Michael tells his in-laws of conversations between Terri and himself in which she said to him that she would not want to be maintained artificially. “The timing of the disclosure—after he had won the malpractice money and begun dating Jodi Centozone, with whom he would have two children—made the Schindlers very suspicious.”

1998

-- May: Michael Schiavo files petition to remove Terri's feeding tube. The Schindlers oppose saying that Terri would want to remain alive. The court appoints Richard Pearse, Esq., to serve as the second guardian ad litem for Terri Schiavo.

-- Dec. 20: Richard Pearse issues a report in which he concluded that Terri Schiavo is in a persistent vegetative state (PVS) with no chance of improvement and that Michael Schiavo’s decision making may be influenced by the potential to inherit the remainder of Terri’s estate.

2000

-- Jan. 24: The trial begins; Pinellas-Pasco County Circuit Court Judge George W. Greer presides.



Figure 11. Pinellas County Circuit Court Judge George W. Greer.

At the trial, Michael's brother Scott and sister-in-law Joan testify with Michael that Terri told them never to prolong her life artificially. They all recounted a story regarding the Schiavo's grandmother when she was on life support near the end of her life. Terri said "If ever I go like that, just let me go. Don't leave me there." Judge Greer found the testimony constituted "clear and convincing evidence" of Terri's wishes.

- Feb. 11: Judge Greer rules feeding tube can be removed after finding that Terri would have chosen to have the PEG tube removed.
- Mar. 2: The Schindlers file a petition with Judge Greer to allow "swallowing tests" on Terri.
- Mar. 7: He denies the Schindlers' petition.
- Mar. 24: Judge Greer grants Michael's petition to limit visitation to Terri as well as to bar pictures. Judge Greer also stays his order until 30 days beyond the final exhaustion of all appeals by the Schindlers.

2001

- Jan. 24: 2nd District Court of Appeal upholds Greer's decision; a rehearing is also denied, and the Florida Supreme Court denies review.
- March 29: Greer rules feeding tube to be removed April 20.
- April 12: The Schindlers file a motion asking that Judge Greer recuse himself.
- April 18: Florida Supreme Court refuses to intervene in the case.
- April 20: U.S. District Judge Richard Lazzara grants the Schindlers a stay until April 23 to exhaust appeals.
- April 23: U.S. Supreme Court (through Justice Anthony M. Kennedy) refuses to intervene.
- April 24: **Feeding tube is removed from Terri Schiavo.**
- April 26: The Schindlers file an emergency motion with Judge Greer for relief from judgment based upon new evidence, which includes a claim that a former girlfriend of Michael Schiavo will testify that he lied about Terri Schiavo's wishes. Also on this date, the Schindlers file a new civil suit that claims that Michael Schiavo perjured himself. Pending a new trial, Circuit Judge Frank Quesada orders doctors to reinsert Terri's feeding tube.
- April 30: Lawyers for Michael Schiavo file emergency motion with appellate court asking it to order removal of Terri's feeding tube.
- July 11: 2nd District Court of Appeal sends case back to Judge Greer consolidating all the claims.
- July 18: Schindlers ask Greer to let their doctors evaluate Terri before making a final decision on removing the feeding tube.
- Aug. 10: Greer denies the Schindlers' evaluation request, as well as their request to remove Michael Schiavo as guardian.
- Sept. 26: Schindlers' attorneys argue before 2nd District Court of Appeal, citing testimony from seven doctors who say Terri can recover with the right treatment.

- Oct. 3: 2nd District Court of Appeal delays removal of feeding tube indefinitely.
- Oct. 17: 2nd District Court of Appeal rules that five doctors can examine Terri to determine whether she has any hope of recovery. Two doctors are picked by the Schindlers, two are picked by Michael Schiavo and one is picked by the court.
- Dec. 19: Attorneys meet with a mediator to determine which tests should be performed on Terri.

2002

- Jan. 10: Florida Supreme Court stays all legal proceedings pending mediation; it orders attorneys to report on the status of mediation in 60 days.
- Feb. 13: Mediation attempts fail; Michael Schiavo again seeks to be allowed to remove Terri's feeding tube.
- Mar. 14: Florida Supreme Court denies Michael Schiavo's petition to review the 2nd District Court of Appeal's ruling allowing five physicians to examine Terri.



Figure 12. Terri Schiavo's head CT scan in 2002.

- Oct. 12-22: Judge Greer presides; a hearing begins in the case. Three doctors, including the one appointed by the court, testify that Terri is in a PVS with no hope of recovery. The two doctors selected by the Schindlers say she can recover.
- Nov. 15: The Schindlers contend that Michel might have abused Terri and this abuse led to her condition. They ask the court for more time to collect evidence, and to remove Michael as guardian.
- Nov. 22: Judge Greer rules that there is no evidence that Terri has any hope of recovery and orders feeding tube to be removed Jan. 3, 2003.
- Dec. 13: Judge Greer stays order to remove feeding tube on Jan. 3 until the 2nd District Court of Appeal reviews the case.

2003

- April 4: Schindlers' attorneys ask 2nd District Court of Appeal panel to "err on the side of life" and overturn Greer's ruling.
- June 6: 2nd District Court of Appeal upholds Greer's ruling.
- July 15: The 2nd District Court of Appeal refuses to rehear the case.
- Aug. 22: The Florida Supreme Court declines to hear case.
- Sept. 2: Schindlers take case to federal court seeking judicial intervention.

- Sept. 17: Judge Greer sets Oct. 15 date for removal of tube.
- Oct. 3: Florida Attorney General Charlie Crist says he won't get involved in case.
- Oct. 7: Gov. Jeb Bush files a federal court brief urging Terri Schiavo be kept alive.
- Oct. 10: U.S. District Judge Lazzara rules he does not have jurisdiction to intervene in case.
- Oct. 13: Protesters and Schindler family begin 24-hour vigil at Pinellas Park hospice where Terri Schiavo lives.
- Oct. 14: 2nd District Court of Appeal again refuses to block tube removal.
- Oct. 15: **Doctors remove feeding tube**; Bush pledges to search for possible legal options to resume feedings.
- Oct. 17: Two state courts reject the Schindler's request to reinsert the feeding tube.
- Oct. 19: The Advocacy Center for Persons with Disabilities, Inc. files a federal court lawsuit that claims that removal of Terri's PEG tube is abuse and neglect.



Figure 13. Terri Schiavo with her mother in a 2001 home video.

- Oct. 20: During a special session dealing with taxes, the Florida House of Representatives votes to give governor the power to issue a stay in the feeding tube dispute.
- Oct. 21: The Senate and House pass a bill allowing Bush to intervene.

Senator Webster moved the following amendment:

12

13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15

16 and insert:

17 Section 1. (1) The Governor shall have the authority
18 to issue a one-time stay to prevent the withholding of
19 nutrition and hydration from a patient if, as of October 15,
20 2003:

21 (a) That patient has no written advance directive;

22 (b) The court has found that patient to be in a
23 persistent vegetative state;

24 (c) That patient has had nutrition and hydration
25 withheld; and

26 (d) A member of that patient's family has challenged
27 the withholding of nutrition and hydration.

28 (2) The Governor's authority to issue the stay expires
29 15 days after the effective date of this act, and the
30 expiration of that authority does not impact the validity or
31 the effect of any stay issued pursuant to this act. The

1 Governor may lift the stay authorized under this act at any
2 time. A person may not be held civilly liable and is not
3 subject to regulatory or disciplinary sanctions for taking any
4 action to comply with a stay issued by the Governor pursuant
5 to this act.

6 (3) Upon the issuance of a stay, the chief judge of
7 the circuit court shall appoint a guardian ad litem for the
8 patient to make recommendations to the Governor and the court.

9 Section 2. This act shall take effect upon becoming a
10 law.

11
12

13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

16

17 and insert:

18 A bill to be entitled

19 An act relating to the authority for the
20 Governor to issue a one-time stay; authorizing
21 the Governor to issue a one-time stay to
22 prevent the withholding of nutrition and
23 hydration under certain circumstances;
24 providing for expiration of the stay;
25 authorizing the Governor to lift the stay at
26 any time; providing that a person is not
27 civilly liable and is not subject to regulatory
28 or disciplinary sanctions for taking an action
29 in compliance with any such stay; providing for
30 the chief judge of the circuit court to appoint
31 a guardian ad litem; providing an effective

1 date.



Figure 14. Florida Governor Jeb Bush.

Gov. Bush signs the bill, called "Terri's Law," then issues an order to reinsert the tube. Morton Plant Hospital begins rehydrating Terri Schiavo, six days after her feeding tube was removed. A judge rejects a request by her husband's attorney to temporarily restrain the governor's order.

-- Oct. 21: Michael Schiavo files a state court lawsuit arguing that "Terri's law" is unconstitutional and seeks an injunction to stop the re-insertion of the PEG tube. The court requests briefs on the constitutional arguments.

-- Oct. 21: The federal district court denies the motion for a temporary restraining order in the Advocacy Center lawsuit.

-- Oct. 22: David Demeres, Chief Judge for the Pinellas County Circuit Court, orders both the Schindlers and Michael Schiavo to agree within 5 days on an independent guardian ad litem as required under the governor's order pursuant to a "Terri's law" provision.



Figure 15. Michael Schiavo on Larry King Live, March 27, 2003.

-- Oct. 28: Pres. Bush praises Gov. Bush for his handling of the matter.

-- Oct. 29: The American Civil Liberties Union joins Michael Schiavo in his lawsuit challenging the constitutionality of "Terri's law."

-- Oct. 31: Chief Judge Demeres appoint Dr. Jay Wolfson as Terri Schiavo's guardian ad litem. Dr. Wolfson is a public health law professor and attorney at the University of South Florida.

-- Nov. 4: Gov. Bush asks Circuit Court Judge W. Douglas Baird to dismiss Michael Schiavo's lawsuit challenging "Terri's law."

-- Nov. 8: Judge Baird denies Gov. Bush's motion.

-- Nov. 10: Gov. Bush appeals Judge Baird's decision.

-- Nov. 14: Judge Baird vacates the stay; the 2nd Court of Appeals issues an indefinite stay.

-- Nov. 19: Gov. Bush files a petition to remove Judge Baird.

-- Nov. 21: Florida State Sens. Stephen Wise and Jim Sebestia introduce S.692 that would require persons in PVS to be sustained with medically-mediated food and fluids in the absence of a living will, regardless of family beliefs about what those patients would have wanted. (The measure was withdrawn from consideration on April 16, 1004.)

-- Dec. 2: The independent guardian concludes there's "no reasonable medical hope" that Terri Schiavo will improve. Gov. Bush responds.

2004

-- Jan. 5: The Schindlers petition the Pinellas County Circuit Court to reappoint Dr. Jay Wolfson, guardian ad litem.

-- Jan. 8: Chief Judge Demeres rejects the request to reappoint Dr. Wolfson, saying that pending court decisions over the constitutionality of "Terri's law" are reason to wait on any action.

-- Feb. 13: The 2nd District Court of Appeals reverses Judge Baird's ruling that denied the Schindlers permission to intervene in Michael Schiavo's constitutional challenge to "Terri's law." The District Court of Appeals explains the Judge Baird did not follow proper procedure. The court also gives permission to Gov. Bush to question several witnesses who Judge Baird previously ruled could not offer relevant testimony.

-- Mar. 20: Pope John Paul II addresses the World Federation of Catholic Medical Associations and Pontifical Academy of Life Congress on "Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas." His remarks spark widespread interest and controversy.

-- Mar. 29: Nursing home workers discover four "fresh puncture wounds" on one arm and a fifth on the other arm; the workers state that a hypodermic needle appears to have caused the wounds. Attendants discovered the wounds shortly after the Schindlers visited Terri for 45 minutes. Toxicology reports indicate that no substance was injected into Terri. Clearwater police later conclude that the marks may have been made by a device used to move Ms. Schiavo and, in any case, that no evidence of abuse or other wrongdoing could be found.

-- Mar. 29: Judge Greer denies a motion by the Schindlers seeking to have Michael denied himself at a hearing. They alleged his is violating a 1996 court order that requires him to share information about Terri's medical condition. Michael claims to have shared a sufficient amount through attorneys.

-- May 6: Circuit Judge W. Douglas Baird rules the law allowing Bush to intervene is unconstitutional. The governor's attorneys appeal.

-- June 1: 2nd District Court of Appeal agrees to let Michael Schiavo's attorney ask the Florida Supreme Court to take the appeal directly, bypassing the 2nd DCA.

-- June 16: In a 4-3 order, the Florida Supreme Court agrees to take the appeal—holding the issue "a question of great public importance requiring immediate resolution by this Court."

-- June 30: The 2nd District Court of Appeal affirms Judge Baird's ruling denying the Schindlers permission to intervene in the Michael Schiavo case challenging "Terri's law" constitutionality.

-- July 19: The Schindlers file a petition in Pinellas County Circuit Court seeking relief from a judgment in *Schindler v. Schiavo*. Based in part upon the recent statement by Pope John Paul II, they argue that the orders mandating withdrawal of the PEG tube from Terri would violate her "free exercise of her religious beliefs [and] her right to enjoy and defend her own life and, in fact, imperil her immortal soul."

-- July 27: National group of bioethicists file amicus brief in support of Michael Schiavo in the Florida Supreme Court challenge.

-- Aug. 31: Oral arguments in the Florida Supreme Court case are nationally televised.

-- Aug. 31: Circuit Judge George W. Greer, opposed for re-election by an attorney who was known to oppose Greer's rulings in the Schiavo case, is re-elected by a wide margin.

-- Sept. 23: Florida Supreme Court strikes down "Terri's Law" as unconstitutional.

Bush v. Schiavo, Fla. S. Ct., No. SC04-925 (Sept. 23, 2004).

The narrow issue in this case requires this Court to decide the constitutionality of a law passed by the Legislature that directly affected Theresa Schiavo, who has been in a persistent vegetative state since 1990.¹ This Court, after careful consideration of the arguments of the parties and amici, the constitutional issues raised, the precise wording of the challenged law, and the underlying procedural history of this case, concludes that the law violates the fundamental constitutional tenet of separation of powers and is therefore unconstitutional both on its face and as applied to Theresa Schiavo. Accordingly, we affirm the trial court's order declaring the law unconstitutional.

* * *

- Oct. 4: Gov. Bush files a motion for rehearing.
- Oct. 21: The Bush motion is denied.
- Oct. 22: Greer refuses to hold a new trial based on recent comments from Pope John Paul II calling the withdrawal of food and hydration from the disabled a sin.
- Dec. 1: Gov. Bush's attorneys ask the U.S. Supreme Court to take the case on "Terri's law."
- Dec. 29: The 2nd District Court of Appeal upholds Greer's decision not to grant a new trial.

2005

- Jan. 10: Yet again, the Schindlers ask Judge Greer to remove Michael Schiavo as Terri's guardian.
- Jan. 24: U.S. Supreme Court refuses to hear the appeal brought by the governor's attorneys.
- Jan. 28: An attorney for the family of Terri Schiavo asks Greer to allow him to proceed with a motion arguing that her due-process rights were violated because she has never had her own attorney.
- Feb. 7: The Florida Department of Agriculture and Consumer Services cites the Terri Schindler-Schiavo Foundation for failing to register with the state to solicit donations.
- Feb. 18: Florida State Reps. Baxley Brown, Cannon, Davis, Flores, Goldstein, Leopen-Cantera, Murzin, Quinones, and Traviesa introduce H.701 in the Florida House of Representatives—mirroring S.692.
- Feb. 22: The 2nd District Court of Appeal clears the way for Michael Schiavo to remove Terri's feeding tube, then Pinellas Circuit Court Judge George Greer issued an emergency stay blocking removal of Terri Schiavo's feeding tube until 5 p.m. the next day.
- Feb. 23: Greer extended the stay by two days, saying he needed time to decide whether her parents should be allowed to pursue other legal and medical options.
- Feb. 24: An attorney for the Schindler's says the Department of Children and Families is seeking a 60-day stay on the removal the feeding tube while it investigates new allegations of abuse and neglect.
- Feb. 25: Greer gives Michael Schiavo permission to order the removal of the feeding tube at 1 p.m., March 18.

- Mar. 8: Rep. Dave Weldon and Sen. Mel Martinez, both Florida Republicans in the U.S. Congress, introduce legislation that would give the parents access to federal courts in the effort to save their daughter's life.
- Mar. 10: Greer rules the State Department of Children and Families cannot intervene in the Terri Schiavo right-to-die case.
- Mar. 14: The Florida House of Representatives Judiciary Committee considers H.701, voting to approve another committee substitute for the original bill. The Sun-Sentinel reports that the House and the Senate have agreed that the bill will come to a vote.
- Mar. 16: 2nd District Court of Appeal refuses to block the expected removal of Terri Schiavo's feeding tube. The U.S. House of Representatives by voice vote passes a bill aimed at keeping her alive.
- Mar. 17: Florida House passes a bill intended to keep Terri alive. U.S. Senate passes a bill different from U.S. House version.
- Mar. 18: Congressional Republicans try to put off tube removal by seeking her appearance at hearings (via issuance of five subpoenas from the House Committee on Government Reform), but Greer rules the tube must be removed. **The tube is soon removed.** The U.S. House Committee on Government Reform files emergency petitions with the Florida Supreme Court and the U.S. Supreme Court—the motions are denied.



Figure 16. U.S. Representatives outside the Majority Leader's office.

- Mar. 19: Congressional leaders from both parties reach deal on bill that would allow the tube to be reconnected while a federal court reviews the case. The White House said President Bush would sign the bill when it is passed.
- Mar. 20: The Senate passes the S.656 on Palm Sunday (on voice vote with three members present in the chamber), but Democrats in the House delay passage of the measure.



Figure 17. House vote tabulation on CSPAN.

-- Mar. 21: The House passes the bill after members scramble to return to Washington for an early morning vote (at 12:20 A.M. by vote of 203-58 after suspending its rules). President Bush signs the bill outside his White House bedroom at 1:11 A.M. The parents file an emergency request with a Tampa federal judge to have the tube reconnected.

AN ACT

For the relief of the parents of Theresa Marie Schiavo.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO.

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 2. PROCEDURE.

Any parent of Theresa Marie Schiavo shall have standing to bring a suit under this Act. The suit may be brought against any other person who was a party to State court proceedings relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain the life of Theresa Marie Schiavo, or who may act pursuant to a State court order authorizing or directing the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. In such a suit, the District Court shall determine de novo any claim of a violation of any right of Theresa Marie Schiavo within the scope of this Act, notwithstanding any prior State court determination and regardless of whether such a claim has previously been raised, considered, or decided in State court proceedings. The District Court shall entertain and determine the suit without any delay or abstention in favor of State court proceedings, and regardless of whether remedies available in the State courts have been exhausted.

SEC. 3. RELIEF.

After a determination of the merits of a suit brought under this Act, the District Court shall issue such declaratory and injunctive relief as may be necessary to protect the rights of Theresa Marie Schiavo under the Constitution and laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 4. TIME FOR FILING.

Notwithstanding any other time limitation, any suit or claim under this Act shall be timely if filed within 30 days after the date of enactment of this Act.

SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.

Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.

SEC. 6. NO EFFECT ON ASSISTING SUICIDE.

Nothing in this Act shall be construed to confer additional jurisdiction on any court to consider any claim related--

- (1) to assisting suicide, or
- (2) a State law regarding assisting suicide.

SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.

Nothing in this Act shall constitute a precedent with respect to future legislation, including the provision of private relief bills.

SEC. 8. NO AFFECT ON THE PATIENT SELF-DETERMINATION ACT OF 1990.

Nothing in this Act shall affect the rights of any person under the Patient Self-Determination Act of 1990.

SEC. 9. SENSE OF THE CONGRESS.

It is the Sense of Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of foods, fluid, or medical care.



Figure 18. Mary and Robert Schindler before supporters, March 2005.



Figure 19. U.S. District Court Judge James D. Whittemore.

-- March 22: U.S. District Judge James Whittemore refuses to order the reinsertion of the tube. The judge said the Schindlers failed to establish a "substantial likelihood of success" on the merits of their arguments. The parents appeal to the U.S. Circuit Court of Appeals in Atlanta.

Schiavo ex rel. Schindler v. Schiavo, U.S. Dist. Ct. (M. Div. Tampa). No. 8:05-DV-530-T-27TBM, Order by Judge Whittemore (Mar. 22, 2005).

* * * The Act (Pub. L. 109-3, Mar. 21, 2005) expressly confers standing to Plaintiffs as her parents to bring any such claims. There can be no substantial question, therefore, that Plaintiffs may bring an action against a party to the state court proceedings in this court for claimed constitutional deprivations or violations of federal law occasioned on their daughter relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. Whether the Plaintiffs may bring claims in federal court is not the issue confronting the court today, however. The issue confronting the court is whether temporary injunctive relief is warranted.

* * *

The purpose of a temporary restraining order, like a preliminary injunction, is to protect against irreparable injury and preserve the status quo until the district court

renders a meaningful decision on the merits. * * * A district court may grant a preliminary injunction only if the moving party shows that:

- (1) it has substantial likelihood of success on the merits;
- (2) irreparable injury will be suffered unless the injunction issues;
- (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and
- (4) if issued, the injunction would not be adverse to the public interest.

* * *

This court appreciates the gravity of the consequences of denying injunctive relief. Even under these difficult and time stained circumstances, however, and notwithstanding Congress' expressed interest in the welfare of Theresa Schiavo, this court is constrained to apply the law to the issue before it. As Plaintiffs have not established a substantial likelihood of success on the merits, Plaintiffs Motion for Temporary Restraining Order (Dkt. 2) must be **DENIED**.

* * *

-- March 23: The 11th Circuit of the United States Court of Appeals (by panel [2-1] and *en banc* [10-2]) declines to order the reinsertion of the tube. The Schindlers turn to the U.S. Supreme Court. The Florida Senate refuses to pass S.804 (a bill much like the passed substitute for H.701), 21-18. Gov. Bush reports that a neurologist—Dr. William Cheshire—claims that Terri is not in PVS. The governor asks the Florida Department for Children and Families to obtain custody of Terri in light of the allegations of abuse. Judge Greer holds a hearing on the matter. Judge Greer issues an order prohibiting the Department from removing Terri from the hospice or otherwise re-inserting the PEG tube.

-- March 24: The U.S. Supreme Court denies the appeal.

-- March 25: The Schindlers again ask Greer to intervene, saying Schiavo tried to say, "I want to live." The Schindlers file an amended complaint in federal district court too. Judge Whittemore denies the Schindlers motion.

-- March 26: Greer rejects another effort by the Schindlers to get the feeding tube reinserted; Florida Supreme Court declines to intervene.

-- March 29: 11th Circuit agrees to consider the Schindlers' emergency bid for a new hearing on whether to reconnect her feeding tube.

-- March 30: The 11th Circuit declines to intervene.

Schiavo ex rel. Schindler v. Schiavo, U.S. Ct. Appeals for the 11th Circuit, No. 05-00530-CV-T-27-TBM, Order on Motion for Expedited Hearing En Banc (March 25, 2005).

* * *

BIRCH, Circuit Judge, specially concurring:

I concur in the denial of the rehearing en banc in this case because any further action by our court or the district court, would be improper, as I explain below.

An axiom in the study of law is that "hard facts make bad law." The tragic events that have afflicted Ms. Schiavo have been compounded by the resulting passionate inter-

family struggle and media focus certainly qualify as “hard facts.” And, while members of her family and the members of the Congress have acted in a way that is both fervent and sincere, the time has come for dispassionate discharge of duty.

A popular epithet directed by some members of society, including some members of Congress, toward the judiciary involves the denunciation of “activist judges.” Generally, the definition of an “activist judge” is one who decides the outcome of a controversy before him according to personal conviction, even one sincerely held, as opposed to the dictates of the law as constrained by legal precedent and, ultimately, our Constitution. In resolving the Schiavo controversy it is my judgment that, despite sincere and altruistic motivation, the legislative and executive branches of our government have acted in a manner demonstrably at odds with our Founding Fathers’ blueprint for the governance of a free people—our Constitution. * * *

Hours later, the Schindlers appeal to the U.S. Supreme Court, which also refuses to intervene.

-- March 31: Terri Schiavo dies at 9:05 A.M., age 41.