

**IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
PROBATE DIVISION
File N. 90-2908GD-003**

**In re: THE GUARDIANSHIP OF
THERESA MARIE SCHIAVO,
Incapacitated.**

**MICHAEL SCHIAVO
Petitioner,**

v.

**ROBERT SCHINDLER and
MARY SCHINDLER,
Respondents.**

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**MOTION FOR CLARIFICATION
AND EMERGENCY TEMPORARY STAY**

Come now Respondents Robert and Mary Schindler, by and through their counsel, and move this Court for clarification of its stay order issued October 28, 2004, and for a temporary order staying Petitioner from discontinuing Theresa Schiavo's assisted feeding until this Court has ruled on their Motion for Emergency Stay filed herein on February 15, 2005, the hearing for which has now been rescheduled for February 23, 2005. Respondents show the following in support of this motion.

1. On October 28, 2004, this Court stayed its order of February 11, 2000, "to permit Respondents, Robert and Mary Schindler, to pursue

their appeal to the Second District Court of Appeal . . . and such stay shall terminate and be of no further force and effect upon the earlier of a dismissal of that appeal or the issuance of a Mandate by the Second District Court of Appeal thereon.” (Order, October 28, 2004).

2. The District Court of Appeal has on this date denied Respondents’ motion to withhold mandate and stay issuance of mandate and given notice that its mandate will issue February 22, 2005, at 1 p.m.

3. In response to Petitioner’s public statement that he will discontinue Mrs. Schiavo’s assisted feeding immediately upon the District Court of Appeal issuing its mandate, Respondents had noticed a hearing for today at 2:30 p.m. on their Motion For Emergency Stay filed herein on February 15.

4. Early this morning the Court notified the undersigned of its intention to postpone the stay hearing until Wednesday in order to be able to review the DCA’s mandate.

5. At approximately 11:30 a.m. today, Mr. Felos informed the undersigned of the Petitioner’s intention to discontinue Mrs. Schiavo’s assisted feeding at 1:00 p.m. tomorrow, February 22.

6. In a hearing upon the stay issued October 28, 2004, this Court stated in open court that Petitioner would need further authorization from this Court before he court discontinue Mrs. Schiavo's assisted feeding.

7. Petitioner obviously believes he does not need further authority from the Court before he instructs health-care providers to cease providing food and water to Mrs. Schiavo.

Wherefore, Respondents respectfully request this Court to clarify its October 28, 2004, Order:

- a. To clarify that the issuance of the DCA's mandate does not automatically authorize Petitioner to discontinue Mrs. Schiavo's assisted feeding without further authorization from this Court, and
- b. Staying Petitioner from removing Mrs. Schiavo's assisted feeding until after the hearing now set for Wednesday, February 23, 2005, and after the Court has ruled upon Respondents' Motion for Emergency Stay filed herein February 15, 2005.

Respectfully submitted,

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I HEREBY CERTIFY that a true copy hereof has been sent by facsimile and U. S. Mail on this twenty-first day of February 2005 to the following addressees:

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