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February 21, 2005

The Honorable George W. Greer  
Pinellas County Courthouse - Room 484  
315 Court Street  
Clearwater, FL 33756

By FAX No.: (727) 464-5471

Re: Guardianship of Theresa Schiavo

Dear Judge Greer:

This letter is in response to respondents' Motion for Clarification and Emergency Temporary Stay, which was faxed to my office at 12:32 p.m. this date. Petitioner opposes the motion, opposes the entry of any temporary stay, and requests that no order be entered thereon without a hearing, (even telephonic), at which the parties can present argument.

The latest motion should not even be entertained by the Court. First, the Motion for Clarification and Emergency Temporary Stay is procedurally defective because it simply restates allegations contained in respondents' February 15, 2004 Motion for Emergency Stay, which was originally scheduled for hearing at 2:30 p.m. this afternoon. Second, this Court does not at this time have jurisdiction to enter a stay, (as explained in petitioner's October 25, 2004 Motion to Vacate Order of Emergency Stay filed in the "Papal" matter, which resulted in this Court vacating its emergency stay order).

Counsel for both parties believe that the best way to orderly proceed in this matter is to hold the hearing (originally scheduled for 2:30 p.m. today) later this afternoon, or if that is not possible, sometime tomorrow prior to 1:00 p.m. While the Court has stated it wishes to see the mandate before holding such a hearing, petitioner has no indication at this time that the mandate to be issued will be other than the form mandate commanding the lower court to act, "in accordance with the opinion of this Court attached hereto..." While it is certainly possible that the appellate court could deviate from its form mandate, the parties have no indication that it will do so, and thus the only likely instruction this Court will have upon issuance of the mandate is the December 29, 2004 PCA opinion of

that Court.

As this Court knows, the stay of the February 11, 2000 final judgment authorizing the discontinuance of the ward's artificial life support expires at 1:00 p.m. tomorrow, (DCA order attached). That final judgment, as stated by the appellate court in *Schiavo II*, is a mandatory injunction "compelling" the guardian to discontinue artificial life support, 792 So. 2d at 559. As such, so there is no misunderstanding as to the guardian's position, absent any further stays that might be put in place, the guardian will, as he is obligated to do, comply with the final judgment, (which became the order of the appellate court by its *Schiavo I* mandate), by discontinuing the ward's artificial life support at 1:00 p.m. tomorrow.

Respectfully,

  
George J. Felos

GJF/fw

Enclosure

cc: David C. Gibbs, III, Esq., by FAX

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327**

February 21, 2005

**CASE NO.: 2D04-4755**  
L.T. No. : 90-2908 G D 003

Robert Schindler  
& Mary Schindler,

v. Michael Schiavo,  
In Re: Theresa M. Schiavo

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

Appellants' "motion to withhold mandate and stay issuance of mandate pending appellants' petition for writ of certiorari to the United [sic] Supreme Court" is denied.

The mandate in this proceeding will issue February 22, 2005, at 1 p.m.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Barbara J. Weller, Esq.  
Deborah A. Bushnell, Esq.  
Gyneth Stanley, Esq.  
Hon. George W. Greer  
Ken Burke, Clerk

Hamden H. Baskin, III, Esq.  
George J. Felos, Esq.  
Jan G. Hallsky  
David C. Gibbs, III

es

  
James Birkhold  
Clerk

