

**IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA  
PROBATE DIVISION**

**IN RE: THE GUARDIANSHIP OF  
THERESA MARIE SCHIAVO, File No. 90-2908-GD-003  
Incapacitated.**

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**MICHAEL SCHIAVO,**  
**Petitioner,**

**vs.**

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

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**ORDER**

**THIS CAUSE** came before the Court for hearing on February 23, 2005, on Respondents' Motion for Emergency Stay of Execution of February 11, 2000, Order to Remove Theresa Schiavo's Nutrition and Hydration filed on February 15, 2005. David C. Gibbs, III, Esq, appeared for the Respondents and George J. Felos, Esq, appeared for the Petitioner.

The Second District Court of Appeal issued its standard Mandate in this case on February 22, 2005, and Respondents now contend that an indefinite stay should be granted by this Court based on (1) appellate review of this Court's Order of February 11, 2005; (2) the Petition to Remove the Guardian pending before this Court; and (3) their intention to file a petition for a writ of certiorari with the United States Supreme Court to review the orders of this Court and of the Second District Court of Appeal on the effect of a papal pronouncement. In addition to the stay, Respondents also ask that the Court prevent the Petitioner from removing Theresa Schiavo's nutrition and hydration without further order of the Court.

The Court notes that it received on the day of the hearing courtesy copies of the Respondents' new Fla. R. Civ. P. 1.540(b)(5) motion based on new medical procedures and petition for the ward to undergo experimental treatment. Also, minutes before the hearing, the Court was presented with a motion to intervene filed by the Florida Department of Children and Families. Respondents had previously filed a Motion for Clarification and Emergency Temporary Stay, which is now moot.

The Court after hearing excellent argument of counsel, reviewing the pleadings and being otherwise advised in the premises, finds as follows:

Five years have passed since the issuance of the February 2000 Order authorizing the removal of Theresa Schiavo's nutrition and hydration and there appears to be no finality in sight to this process. The Court, therefore, is no longer comfortable in continuing to grant stays pending appeal of Orders denying Respondents' various motions and petitions. The process does not work when the trial court finds a motion to be without merit but then stays the effect of such denial for months pending appellate review. Also, the Court is no longer comfortable granting stays simply upon the filing of new motions and petitions since there will always be "new" issues that can be pled. The Respondents will need to demonstrate before the appellate courts that their requests have merit and accordingly are worthy of a stay.

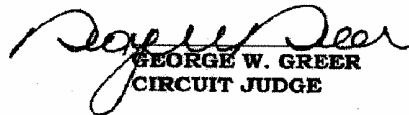
The parties through counsel have requested this Court to rule on the issue of whether or not the Petitioner needs court permission to act upon the February 11, 2000 Order once the stay expires. Counsel agree that the Court is not required to have another hearing to set such time and date should the Court wish to do so. The Court is persuaded that no further hearing need be required but that a date and time certain should be established so that last rites and other similar matters can be addressed in an orderly manner. Even though the Court will not issue another stay, the scheduling of a date certain for implementation of the

February 11, 2000 ruling will give Respondents ample time to appeal this denial, similar in duration to previous short-time stays granted for that purpose. Therefore it is

**ORDERED AND ADJUDGED** that the Motion for Emergency Stay filed on February 15, 2005, is DENIED. It is further

**ORDERED AND ADJUDGED** that absent a stay from the appellate courts, the guardian, MICHAEL SCHIAVO, shall cause the removal of nutrition and hydration from the ward, THERESA SCHIAVO, at 1:00 p.m. on Friday, March 18, 2005.

**DONE AND ORDERED** in Chambers, at Clearwater, Pinellas County, Florida, at ~~2:30~~ p.m. this 25 day of February, 2005.

  
GEORGE W. GREER  
CIRCUIT JUDGE

TRUE COPY

Copies furnished to:  
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