

IN THE SUPREME COURT OF THE STATE OF FLORIDA

JEB BUSH,
Governor of the State of Florida,

Appellant,

CASE NO.: SC04-925
L.T. No.: 2D04-2045

MICHAEL SCHIAVO, as the guardian of
the person of THERESA MARIE SCHIAVO,

Appellee.

AMICUS CURIAE BRIEF BY AMICUS GORDON WATTS in support of
Appellee, Michael Schiavo's petition to affirm

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SUMMARY OF ARGUMENT

Although the appellant, Jeb Bush, is entitled to relief in the instant case, relief should not be granted because it will conflict with **This Court's** holding in *Pooser, infra*. Therefore, the order of the lower tribunal should be affirmed, but only after relief has been granted in and through more appropriate avenues of relief, namely the enforcement of many other state and federal laws.

ARGUMENT

This Court has held that "This court is committed to the doctrine that extraordinary relief will not be granted in case where it plainly appears that although the complaining party may be ordinarily entitled to it, if the granting of such relief in the particular case will result in confusion and disorder and will produce an injury to the public which outweighs the individual right of the complainant to have the relief he seeks." *State ex rel. Pooser v. Wester*, 126 Fla. 49, 54 170 So. 736, 738-39 (Fla. 1936) (citations omitted; Justice Terrell for The Court)

Amicus, Gordon Watts, has previously submitted a brief in the lower tribunal of the court of Hon. W. Douglas Baird, in support of The Governor's contention that Public Law 30-418 was not unconstitutional, and this item was not stricken. Said amicus brief, a 6-page document, is in the record before this court, and a copy is included also in the appendix in this cause. (**Appendix, Item 3**)

However, it became apparent to a great many Floridians that the fight over the “Terri’s Law” was distracting valuable resources from the proper administration and enforcement of a whole multitude of other laws, designed and enacted to supposedly protect, among others, the elderly, disabled, and other vulnerable amongst the *Florida* population.

As a result, a great many Floridians, including Theresa Schiavo, have been deprived of the protection of these laws, which are actually more powerful in protecting against abuses for at least two reasons:

1) “Terri’s Law” can be “revoked” by a future Governor: It is not “too invasive.” CONVERSELY, it is not invasive enough. This is the functional equivalent of a Governor’s pardon being “reversed.” Terri Schiavo, an innocent, is deserving of more, not less, protection.

2) These other laws, defended in Item 4 of the appendix provided *herein*, are not being challenged in court and offer a more reliable form of protection, with less “controversy” and confusion involved, thus less harm.

(**Item 4** of the appendix submitted herein is a copy of 2D04-414, a brief very similar to SC03-2420, currently before This Court, and an active case, however, the 2nd District brief was chosen to represent the relief sought, because it had a few revisions, which make it more easily readable: Specifically, the additional authorities in chapter 400, which were added to SC03-2420 appear in 2D04-414, in

which petitioner “got it right the 1st time,” without need to give notice for additional authority. Therefore, **Item 4**, 2D04-414, is a slightly more revised version of SC03-2420, although the latter is the equal, when considering the “additional authorities” submitted in that case number.)

“Terri’s Law,” as it is commonly known, provided a limited amount of relief to the disabled community, and is not, in and of itself, unconstitutional, nor is it unconstitutional as applied, but focus of inordinate energy on this single law subtracted needed focus and efforts required to enforce the laws which SC03-2420 seeks to enforce. "This court is committed to the doctrine that extraordinary relief will not be granted [for Bush] in case where it plainly appears that although the complaining party [Bush] may be ordinarily entitled to it, if the granting of such relief in the particular case will result in confusion and disorder and will produce an injury to the public which outweighs the individual right of the complainant to have the relief he seeks." The distraction of the Terri’s Law fight has certainly caused injury to the public, because lack of enforcement of a multitude of laws, including felony abuse laws and some assisted suicide laws, which had previously been enforced, outweighed any limited relief gained by use of “Terri’s Law.”

By the policy of “Occam’s Razor,” it is well-known that the simplest remedy should be sought if there are several choices which offer relief:

“one should not increase, beyond what is necessary, the number of entities required to explain [or accomplish] anything.”

(<http://pespmc1.vub.ac.be/:/OCCAMRAZ.html>)

The simplest remedy is to enforce the current laws, rather than passing new “Terri’s” laws. This remedy is offered in **SC03-2420**.

CONCLUSION

Based on the foregoing, This Court should consolidate the above-captioned matter with case number SC03-2420, and rule affirmatively on the latter case, granting relief to the illegally imprisoned person of Theresa Schiavo, who, while not terminal by the standards of state law, is nevertheless being held in a hospice, where state standards statutorily require she be terminal. This would make relief in the case at bar moot. Further, This Court should grant the other relief requested in SC03-2420 and affirm the ruling.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to the following parties by FIRST CLASS US POSTAL MAIL, this 26th day of July, 2004 to the following: **George J. Felos, Esq.** - 595 Main Street - Dunedin, FL 34698-4998; **Kenneth L. Connor, Esq., Camille Godwin, Esq.**, Counsel for Respondent Governor Jeb Bush - c/o Wilkes & McHugh, P.A., One North Dale Mabry, STE 800 Tampa, FL 33609 2755; **Jay Vail, Esq., Christina Calamas, Esq.** - Office of the Attorney General - Plaza Level 01 400 South Monroe Street - Tallahassee, FL 32399-5536; **Thomas J. Perrelli, Esq., Robert M. Portman, Esq., Nicole G. Berner, Esq.** 601 13th Street, NW, STE 1200 - Washington, DC 20005-3823; **Randall C. Marshall, Esq.** - American Civil Liberties Union of Fla. 4500 Biscayne Blvd., STE 340 - Miami, FL 33137-3227; **Patricia Fields Anderson, Esq.**, Attorneys for the Schindler family 447 Third Avenue North, STE 405 - St. Petersburg, FL 33701-3255; **Jay Alan Sekulow, Esq., David A. Cortman, Esq.** - American Center for Law and Justice 201 Maryland Ave., NE - Washington, DC 20002-5703

CERTIFICATE OF FONT SIZE, FONT TYPE, AND MARGINS

Pursuant to Fla.R.App.P.9.210(a), I hereby certify that standards were met by using the following in typeset: Font Size = 14 ; Font Type = “Times New Roman” ; Margins = 1 inch in top, bottom, left, and right.

Gordon Wayne Watts,
Amicus