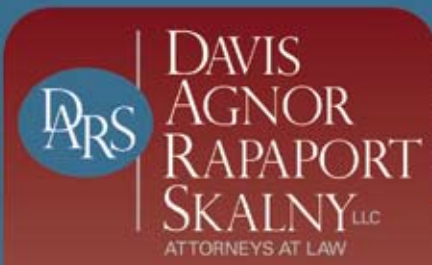


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LEGAL BRIEFS

The Plight of Terry Schaivo – It Is Time for a Final Decision

The plight of Terry Schiavo continues. Ms. Schaivo is the unfortunate woman who suffered a heart attack some 15 years ago, and has been in a permanent vegetative state since that time. Her husband, Michael, has been struggling to implement Terry's wish that she not be kept alive solely by artificial means. Against Michael and Terry are Terry's parents, Bob and Mary Schindler, a host of politicians, and others who are trying to keep Terry alive against her wishes.

Terry's case is the latest among a long line of cases involving health care decision-making when there is a condition of a permanent vegetative state. In the 1970's, Karen Ann Quinlan's case started the debate when she mixed alcohol and drugs one night in such a way that she permanently lost awareness. As a result of this case, the public began the debate about the use of living wills.

In a second landmark case, Nancy Cruzan was in an automobile accident in the late 1980's, the result of which is that she, too, permanently lost awareness. It was Ms. Cruzan's case that the United States Supreme Court used to determine that all citizens had the constitutional right of self-determination when it came to health-care decision-making.

Two points need to be made before they are lost in the rhetoric of Terry's struggle. One is that it is Terry's wishes that need to be enforced. The Florida Courts have repeatedly found that it is Terry's wish was that she not be continued on artificial life sustaining equipment when there is no reasonable hope or expectation that she will ever enjoy any quality of life again. This is not Michael's wish, but Terry's. Michael's role is merely to implement his wife's already established wish.

The second point is that Terry is in a permanent vegetative state, as confirmed by independent examinations conducted by court-appointed physicians. In an August 2004 article that was published by the American Medical Association, Dr. Ronald Cranford described the permanent vegetative state as "a condition of wakeful *unawareness*, a

form of *permanent* unconsciousness." Dr. Cranford further stated that the permanent vegetative state is "a neurological syndrome wherein the patient manifests sleep-wake cycles with periods of eyes open and yet possesses *no consciousness whatsoever* during those wakeful periods."

Terry Schaivo is in a state of permanent unconsciousness, a condition from which she will never recover. And it was her wish, not Michael's, that she not be forced to continue life artificially in this condition. These two points were determined by a trial court after much deliberation, and they have been confirmed and reconfirmed by various appellate courts, notwithstanding claims by others to the contrary.

Terry's parents have not accepted the courts' findings. Understandably, they want to keep their daughter medically alive regardless. Being in a permanent vegetative state can sometimes mimic consciousness, so it must be inconceivably difficult to emotionally accept the fact that Terry really has no awareness. Moreover, Bob and Mary Schindler must be thinking that advances in modern medicine may someday catch up with Terry so that she can be well again.

Everyone's heart goes out to the Schindlers for this struggle. However, keeping the artificial life-sustaining equipment going for Terry reflects Mr. and Mrs. Schindler's wishes, not Terry's. And, allowing politicians and special interest groups to use Terry as their poster child could not have been Terry's wish.

One lesson that we can all take from Terry's case, and from Karen Ann Quinlan and Nancy Cruzan before her, is that we must take personal responsibility for our own health care and communicate our wishes regarding health care and end-of-life decision-making to our entire family, no matter how young or old we are. Not only will taking this step insure that our wishes will be followed, but it will be an incredibly valuable gift to our families to remove the burden of this decision from them.