

AFFIDAVIT

STATE OF FLORIDA COUNTY OF PINELLAS

BEFORE ME, the undersigned authority personally appeared JAY E. CARPENTER, M.D., who being first duly sworn, deposes and states:

1. That Affiant is Board Certified in Internal Medicine, private practice 16 years, Former Chief of Staff of Morton Plant/Mease Health System, Clearwater, Florida; Board of Directors, Professionals for Excellence in Health Care, Clearwater, Florida; and Medical Director, La Clinica Guadalupeana, Clearwater, Florida.

2. The diagnosis and treatment of "Persistent Vegetative State" (PVS) is characterized by a lack of adequate research and definable protocols in the practice of medicine. The fundamental problem in the PVS diagnosis criteria is determining whether the patient is capable of thinking or maintains cognitive behavior of any kind. It is simply not possible to determine internal cognitive processes by methods available to us. Simply because a person may not be observed to interact with her environment does not mean that she is incapable of hearing or thinking, only that she cannot express herself. Studies have shown that those who spend time with the patients felt to have the PVS syndrome, such as parents and caregivers, are much more accurate in determining if the patient is able to interact with the environment, and with others.

3. The undersigned accompanied the parents of Theresa Marie Schiavo, Robert and Mary Schindler, on a visit to Mrs. Schiavo on February 13, 2000. Upon entering her room, we found her sitting up in a chair, quite awake. The undersigned observed her look up and visibly respond to the voice of her mother, Mary Schindler. After Mrs. Schindler asked her a question, Mrs. Schiavo's mouth moved in what appeared to be an effort to voice a response. Indeed, after repeated efforts, a noise was emitted. This process was repeated in three (3) different episodes during the period of observation, which was approximately forty-five (45) minutes. When her mother brought out a stuffed animal and touched her on the opposite arm, she looked down at the animal and continued to look at it. She would look back at her mother when Mrs. Schindler spoke, then back down at the animal. It was obvious to the undersigned that she was aware of her surroundings, and capable of responding to her environment, if only in a limited manner. Her responses were not merely reflexive.

4. It was further noted in the observation of Mrs. Schiavo that food and fluids were being administered through a gastrostomy tube. This is a gravity flow apparatus, and the administration of food and fluids in this manner is simplistic and ordinary care. In the management of the long-term, disabled patient, tube feedings in this manner are often utilized as a time-saving



method of feeding those incapable of managing eating utensils, or for those with compromised swallowing capacities. The administration of sustenance in this manner is not artificial, nor is it merely a life-prolonging, extraordinary, or heroic measure. This was particularly true in the medical community ten (10) to fifteen (15) years ago, with the diagnostic and treatment information available at that time. During that time period, from a medical perspective, the concept of being "hooked up to a machine" to artificially prolong life would not have been consistent with, or inclusive of, the use of the gravity flow feeding tube to give the patient food and water.

5. The human body produces one (1) to three (3) quarts of saliva per day. It was noted in observing Mrs. Schiavo that she had no difficulty in swallowing her own secretions, those which are normally made by any person, and which need to be swallowed. No apparatus for suctioning was present in the patient's room. The parents stated that they had never known of an occasion when Mrs. Schiavo required suctioning to remove excessive or retained saliva. This raises the question whether she might be capable of taking food and fluids in a normal, oral manner, other than through her gravity flow feeding tube. There are simple tests that can be performed to determine if she has this capability. Even if they have been performed in the past, often a person can recover this ability if enough time has passed since their original injury, or illness. Certainly these swallowing studies should be performed to determine Mrs. Schiavo's ability at this point in time.

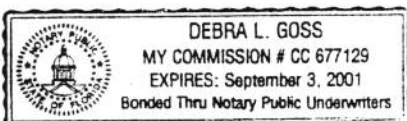
6. We cannot know, in the medical community that death due to deprivation of nutrition and hydration is painless. A conclusion that the death of Mrs. Schiavo from these causes would be painless cannot be based upon verifiable fact. Indeed, when death by depriving the patient of sustenance is the goal, morphine is typically administered. If there is indeed no pain, then morphine would be neither necessary or appropriate.

7. A physical, medical examination was not performed by the undersigned, but in order to properly clarify these observations, and indeed possible conclusions with any degree of medical certainty, especially regarding the ability of Mrs. Schiavo to swallow and take food and water orally, further medical examinations are necessary.

FURTHER AFFIANT SAYETH NOT.


JAY E. CARPENTER, M.D., Affiant

The foregoing instrument was acknowledged before me this 21st day of February, 2000, by **JAY E. CARPENTER, M.D.**, who is personally known or produced personally known as identification and who did/did not take an oath.




NOTARY PUBLIC
My Commission Expires: