



Q&A: The Terri Schiavo case

31 March, 2005

The brain-damaged Florida woman Terri Schiavo has died, following a bitter seven-year legal dispute which saw her feeding tube withdrawn 13 days ago.

Her husband Michael Schiavo maintained his wife would not have wanted to live in a vegetative state while her parents fought to the highest level to keep their daughter alive.

The BBC News website looks at the key issues of the case.

What was wrong with Terri Schiavo?

According to her doctors, 41-year-old Mrs Schiavo was in a "persistent vegetative state" (PVS) - with severe brain damage but not in a coma - for 15 years without the ability to speak.

Mrs Schiavo had been fed by artificial means since she suffered severe brain damage when she suffered a heart attack in February 1990 which robbed her brain of oxygen, causing permanent damage and destroying her cognitive ability. She was 26 years of age at this time, and her heart attack is thought to have been brought on by her suspected bulimia.

Terri emerged from her coma, but did not regain consciousness. Her husband, Michael, was appointed her guardian by a Florida court and took control of his wife's needs.

Michael Schiavo came to advocate removing Terri's feeding tube, arguing that her condition was irreversible, saying that she had told him before her accident that she would not want to be artificially kept alive. However, she did not leave a living will - written instructions on what to do if she became disabled and was unable to communicate her wishes.

People in PVS have a normal heartbeat and can breathe independently, but their awareness of their surroundings is highly debatable.

Because of this uncertainty PVS lies in a legal grey area - unlike brain stem death or the heart stopping which clearly mark the time of death. If she was declared brain dead, then legally and medically she would be declared dead. According to laws in all 50 states in the U.S., brain dead patients are considered deceased.

Mrs Schiavo's parents, Bob and Mary Schindler, insisted that she was not in a "vegetative state" and have witnessed and videotaped her with eyes open, moving her head from side to side, and apparently responding to stimuli. Given time, according to them, she could recover.

Court-appointed doctors say these motions are involuntary and she has shown no signs of mental activity.

What legal moves did this case see?

Terri Schiavo's true wishes will never be known, since she never left any written instructions about what she would have desired if she lapsed into a persistent vegetative state.

As a result, Michael Schiavo and the Schindlers fought each other in every level of the US court system over the course of seven years. It was a bitter legal dispute that divided America over the debate about the "right to die".

In 1993, the Schindlers filed a petition to have Mr Schiavo removed as Mrs Schiavo's guardian, but this case was later dismissed. This started the legal issues that would hang over this case through 2005.

In 1998, Mr. Schiavo filed a petition to remove his wife's feeding tube. Mr Schiavo's overriding concern was to give his wife "a peaceful death with dignity", his lawyer George Felos said.

But a number of appeals prevented this from happening for the next few years.

On April 24, 2001, the feeding tube was removed from Mrs Schiavo. Two days later, a judge ordered doctors to reinsert the feeding tube.

After more hearings, Judge Greer ruled in November 2002 that there was no evidence that Mrs Schiavo had any hope of recovery and ordered the feeding tube to be removed on 3 January 2003. But before this could happen, Judge Greer ordered to stay the removal of the feeding tube to allow appeal.

On September 17, 2003, the judge ordered the removal of the feeding tube. But her parents petitioned the Federal Court five days later, staying the removal.

But by October 15, doctors removed Mrs Schiavo's feeding tube. But days later, on October 21, Florida's lower house passed a law giving Governor Jeb Bush the power to order doctors to feed Mrs Schiavo – what came to be known as "Terri's Law." This law has since been declared unconstitutional.

Gov. Bush gave the order to the doctors, and the next day doctors started giving fluids to Mrs Schiavo and a day later her feeding tube was reinserted.

Michael Schiavo immediately asked the Florida Court to strike down Terri's law as unconstitutional. In May 2004, a Florida county court ruled that Terri's Law was unconstitutional and a violation of the right to privacy. And in September 2004, Florida's Supreme Court agreed and struck down Terri's Law as unconstitutional.

As a result, the feeding tube was to be removed but a judge extended a last-minute stay and ordered that doctors had to wait for a further court ruling before removing Mrs Schiavo's feeding tube.

On March 16, 2005, the Florida Appeals Court refused to block the removal of Mrs Schiavo's feeding tube and set March 18th as the day the tube would be removed.

The US House of Representatives and US Senate both immediately moved to block the removal of Mrs Schiavo's feeding tube - but Judge Greer rejected the maneuvers and ordered the tube removed.

On March 18, 2005, Mrs. Schiavo's feeding tube was removed by a Florida court order at the wishes of her husband, Michael.

The legal battle went as far up as the US Congress, and President Bush rushed through an emergency bill to send the case back to the federal courts soon after the feeding tube was disconnected. President George W Bush and Congress came out in support of the parents, Bob and Mary Schindler.

Within days, the Senate passed an emergency bill calling for a federal court to review the case. The House of Representatives backed the bill and it was signed immediately into law by President Bush. The law gave Mrs. Schiavo's parents a personal right to sue in a federal court to keep her alive. Congress was trying to provide enough time for them to pursue claims that Mrs Schiavo's rights were being violated.

It was brought to the US Supreme Court in an effort to try and order doctors in Florida to resume the feeding of Terri Schiavo.

But the US Supreme Court refused to hear this emergency appeal by Mrs Schiavo's parents, and later a Florida judge rejected a petition by Governor Jeb Bush to become her legal guardian.

This was the sixth and final time the US Supreme Court refused to hear the case since 2000.

Along the way, there were a number of arguments to keep her alive, all ultimately being rejected: that because of his relationship and two children with another woman, Michael should be removed as guardian-although, according to court documents, the Schindlers originally encouraged him to see other women; that as a devout Catholic, Terri would want to live; that Michael was abusing Terri, charges he has vehemently denied; and that her condition has been misdiagnosed, that she actually has a minimal level of consciousness and, with more therapy, could get better.

Courts at all levels sided with Mrs Schiavo's husband - her legal guardian.

The Schindlers continued to fight until the day before their daughter died. On March 31, 2005, Terri Schiavo died, 13 days after her feeding tube was removed.

President Bush said after her death, "Today, millions of Americans are saddened by the death of Terri Schiavo. The essence of civilization is that the strong have a duty to protect the weak. In cases where there are serious doubts and questions, the presumption should be in favor of life."

Rev. Jesse Jackson, who supported the Schindlers, said, "She was starved and dehydrated to death. To me, it was merciless rather than merciful."

Pat Robertson called the removal of her feeding tube "judicial murder," and House majority leader Tom DeLay described it as an "act of medical terrorism."

Father Frank Pavone, national director of the organization Priests for Life, accused Mr Schiavo of "heartless cruelty". "This is not only a death, this is a killing," he said.

The Vatican also denounced the death.

But George Felos, lawyer for Michael Schiavo, said, "Mr Schiavo's overriding concern was [that] Mrs Schiavo has a right and had a right to die with dignity."

Legacy

The death of Terri Schiavo has not ended America's painful ethical and political debate over individuals' right to die as the end-of-life debate continues in the courts and in law in the United States.

At least 10 states are considering new laws to address end-of-life issues, some in direct response to issues raised in the Schiavo case.

Some of the laws work to make living wills more available, while others try to address what to do when patients have not drawn up an advance directive for withdrawal of care.

Almost 70% of the people polled by TIME said they would want their feeding tube pulled if they were in Schiavo's situation, and some went to lengths to ensure they didn't end up in the same predicament by filling out living wills. Of course, having a living will doesn't guarantee it won't be contested, though.

But Kenneth W Goodman, an ethics professor at the University of Miami, says religious conservatives are pushing laws that would make it difficult to withdraw care even when a patient's wishes are clear.

- The Kansas state House of Representatives overwhelmingly approved a measure that would require a guardian to obtain court approval for the withdrawal of care. The law was championed by abortion opponents and disability advocates.
- The Alabama state legislature has drawn up the Starvation and Dehydration Prevention Act, which prevents the removal of a feeding tube without written instructions from the patient.
- A Michigan state legislator has proposed a law that would bar adulterers from acting as a guardian for an incapacitated patient.

And in addition to proposed changes in state law, legal experts say that the intervention by both the Florida legislature and the United States Congress could set a precedent for cases in the future.

A poll taken after her feeding tube was removed showed that a majority of Americans would not want to continue care if they were in her position.

And a FoxNews poll taken near the time of her death found that 54% of Americans thought the removal of the feeding tube was an act of mercy, while 29% thought it was murder.