

# **THE TRAGEDY OF TERRI SCHIAVO AND THE NEED TO OVERTHROW JUDICIAL TYRANNY**

**Posted March 31, 2005**

**By Don Feder**

When it comes to a judiciary run amok, the other two branches of government are in a persistent vegetative state.

Terri Schiavo died today. Her fate was sealed by an adulterous mate, a homicidal judiciary and conservative politicians who could pass for eunuchs.

Whenever a judge – almost any judge, anywhere – issues an edict (however bizarre or detached from reality and the law), elected officials lose bladder control when contemplating the possibility of actually doing something about it.

In San Francisco earlier this month, California Superior Court Judge Richard Kramer, with a wave of his imperious hand, reversed a decision of 61.4% of the electorate.

Kramer struck down the state's marriage law and redefined matrimony in California to include homosexual couples. In so doing, he also nullified a 2000 referendum, passed overwhelmingly by the voters, defining marriage a la Genesis.

Stripped of its legalese, Kramer's reasoning came down to this: I think it's a denial of equal protection for individuals whose unions are characterized by acts of sodomy not to be able to wed. Therefore, bleep you -- state voters, Judeo-Christian morality and the obvious meaning of words (like "marriage" and "family").

This particular exercise in judicial authoritarianism is being appealed.

At least no one is dying (as yet) from Kramer's decision. The same can not be said in the Terri Schiavo case.

The starvation death of Mrs. Schiavo was an exercise of a family's right to privacy, judges tell us. Interesting.

The same mythical privacy right (alleged to be lurking in the First Amendment's "penumbra") which gives a woman the right to kill her unborn child, now gives a husband – claiming he's fulfilling his wife's wishes – the power to have his disabled spouse put to death in a way in which we don't even kill dogs in this country.

Terri Schiavo wasn't comatose. She didn't need a respirator to breathe. If she was being "kept alive by artificial means," so too is the dialysis patient, and the diabetic, who will die without regular injections of insulin.

Terri was conscious much of the time. She smiled and seemed to recognize her parents. She tried to form words. Experts testified that, with therapy, her condition could improve.

Dr. William Cheshire, an eminent neurologist employed by the state of Florida, believes Terri was misdiagnosed and that instead of being in a persistent vegetative state, she was in a state of minimal consciousness, and that she felt pain and visibly reacted to it.

But, in his omniscience, Pinellas Circuit Judge George Greer has ruled that Terri was a non-person kept alive with a feeding tube, and that, if she could communicate, she'd say: "Oh, please

kill me. How I long for the excruciating experience of being starved to death over two weeks.”

The judicial demigod further determined that Terri’s parents (they who gave her life and valiantly fought to sustain it) should have no say in deciding Terri’s fate.

Instead, Greer ruled, the adulterous spouse (who prevented Terri from receiving therapy and who a nurse testified would lovingly inquire, “When is the bitch going to die?”) should speak in her behalf. (“That right, your honor, my wife repeatedly told me that if she was ever disabled – and I was living with another woman and stood to benefit financially from her demise – she’d want to die a slow and agonizing death.”)

The urge to play God isn’t limited to this Pinellas Court pipsqueak. The Florida Supreme Court, U.S District Court, 11<sup>th</sup>. Circuit Court of Appeals and the U.S. Supreme Court all either concurred with Greer’s Auschwitz decision or refused to consider the case.

In the meantime, Republican politicians went through the motions. The Florida Legislature passed and Governor Jeb Bush signed Terri’s Law, providing for the protection of Mrs. Schiavo’s inalienable right to life. Greer and his colleagues declared the law unconstitutional.

Thereafter, Congress passed a special law giving federal courts the power to review the case independent of precedent. The federal courts declined. (Honor among tyrants?)

Congress even took the extraordinary step of issuing a subpoena for Terri, to keep the brain-damaged woman out of the clutches of her judicial executioners. Greer ruled that the Congress of the United States lacked the authority to thwart his will.

Then, throwing caution to the wind, Governor Bush went to Judge Greer and argued that he should be allowed to take Terri into protective custody, under a law giving a state agency the authority to intervene in behalf of a vulnerable adult “suffering from abuse or neglect that presents the risk of death or serious physical injury.”

Greer held the governor had no such power. (Now there’s a shocker!) Instead of sending state troopers to the hospice to rescue the starving woman – thus fulfilling his mandate – the twice-elected governor went, hat-in-hand, to the man who’s been doggedly trying to kill Terri, to ask for permission to save her life.

Even without statutory law, Governor Bush had the power to stop the horror.

The Florida Constitution provides: “All natural persons, male and female alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty ... No person shall be *deprived of any right because of ... physical disability.*”

As the state’s chief executive, with primary responsibility for enforcing its laws, Bush took an oath to “support, protect and defend” Florida’s Constitution. What part of that duty did he not understand?

In a test of wills, Bush failed. When attempting to stare down judicial autocrats -- legislators, governors and presidents almost always blink.

I know of only one man who didn’t – former Alabama Chief Justice Roy Moore, who was willing to lose everything (except his integrity) for constitutional principle.

Known as the Ten Commandments Judge, Moore had the courage (in the face of successive Supreme Court misinterpretations of the First Amendment's Establishment Clause) to display a massive Ten Commandments monument in the Alabama Judiciary Building.

You can't do that, Federal District Court Judge Myron Thompson squealed. Putting the Decalogue in a public place violates "separation of church and state" (words artfully inserted into the First Amendment, by successive liberal courts). Thompson's assault on the Constitution was upheld by the 11<sup>th</sup>. Circuit Appeals Court. (Is this beginning to sound familiar?) On appeal, the Supreme Court let the judgment stand, but will soon rule on other Ten Commandments cases.

You can see why judges (who've assumed godlike powers) wouldn't want God's law – with its injunction against murder – publicly displayed. To do so would acknowledge that our legal system, our Constitution and our nation were established on the Creator's covenant first enunciated at Sinai – just as the Founding Fathers said they were.

Judges prefer a relativistic universe, governed by their personal philosophies and whims, to one anchored in eternal rules of right and wrong.

When he refused to bow and grovel before the federal judiciary, Moore was suspended as Alabama's chief justice. In November 2003, he was tried before a judicial ethics panel.

Moore's position was elegant in its simplicity: I took an oath to defend the Alabama Constitution, which acknowledges God as the foundation of our laws. Therefore, as the state's chief judicial officer, I am bound to affirm that truth, which I have done with my

Ten Commandments statue. And, by the way, I'm not required to go along with the federal judiciary's convenient misinterpretations of the Constitution.

Based on his intransigence here, Moore was removed from office.

If Jeb Bush had followed Roy Moore's example, what exactly could Judge Greer have done? Held him in contempt (surely not in the same degree that most sane people hold Greer)? Sent Pinellas County deputies to arrest him?

It would have provoked a constitutional crisis, fainthearted conservatives wail. Good.

In case they haven't noticed, we are in a constitutional crisis created by activist judges intent on mandating homosexual marriage (thereby deconstructing the American family), taking God out of the Pledge of Allegiance, abetting pornographers in flooding the country with filth, enshrining abortion-on-demand as the penultimate right, making Americans subject to foreign laws, and rewriting our history to transform America into one (secular) nation, under their heel.

To save the Constitution and representative government will take a thousand Roy Moores, all echoing the words of Thomas Jefferson (author of our nation's founding document) "To consider the judges as the ultimate arbiters of all constitutional questions (is) a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy." It has.