

Terri Schiavo: The "Real" Story

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Terri Schiavo: What is The “Real” Story?

- Not:
 - “Let’s look at how family members squabbled in and out of the courts for over 15 years.”
 - “Let’s see how lawyers and judges can really complicate things.”
- But:
 - “What are some vexing bioethical questions that arise out of the Terri Schiavo case?”
 - That’s the “real” story!



Theresa Marie Schindler:

Born: December 3, 1963, Lower Moreland Township, PA

Died: March 31, 2005, Pinellas Park, FL



Images from 2003,
various sources

ROUGH TIMELINE AND DECISIONS:

(adapted from <http://abstractappeal.com/schiavo/infopage.html>)

December 1963...Terri's birth date

November 1984...Terri & Michael marry

February 1990...Terri suffers cardiac arrest and a severe loss of oxygen to her brain

July 1991...Terri is transferred to a skilled nursing facility where she receives aggressive physical therapy and speech therapy

May 1992...Michael and the Schindlers stop living together

January 1993...Michael recovers \$1 million settlement for medical malpractice claim involving Terri's care

May 1998...Michael files petition for court to determine whether Terri's feeding tube should be removed; Michael takes position that Terri would choose to remove the tube; Terri's parents take position that Terri would choose not to remove the tube

ROUGH TIMELINE AND DECISIONS (cont.):

February 2000...Judge Greer: Terri would choose not to receive life-prolonging medical care under her current circumstances.

April 24, 2001...Terri's feeding tube is removed for the first time

April 26, 2001...Judge Quesada grants a temporary injunction, orders Terri's feeding tube restored

October 15, 2003...Terri's feeding tube is removed for the second time

October 21, 2003...Florida House and Senate pass a bill known informally as "Terri's Law" to permit the Governor to issue a stay in cases like Terri's and restore her feeding tube; Governor signs the bill into law and immediately orders a stay; Terri is briefly hospitalized while her feeding tube is restored

May 2004...Judge Baird declares "Terri's Law" unconstitutional on numerous grounds

ROUGH TIMELINE AND DECISIONS (cont.):

September 2004...Florida Supreme Court affirms Judge Baird's ruling that "Terri's Law" is unconstitutional

January 24, 2005...U.S. Supreme Court declines review in "Terri's Law" case

March 18, 2005...Terri's feeding tube removed for the third time

March 21, 2005...Congress enacts Terri's Law II, authorizing Terri's parents to seek federal court review

March 25, 2005...Judge Whittemore denies renewed request to have Terri's feeding tube reinserted

March 30, 2005...Eleventh Circuit unanimously affirms Judge Whittemore's denial of Schindlers' renewed request to have Terri's feeding tube reinserted

March 30, 2005...U.S. Supreme Court again denies the Schindlers' motion to stay

March 31, 2005...Terri passes



Some Key Legal Issues (legal questions of fact)

1) What happened to Terri?

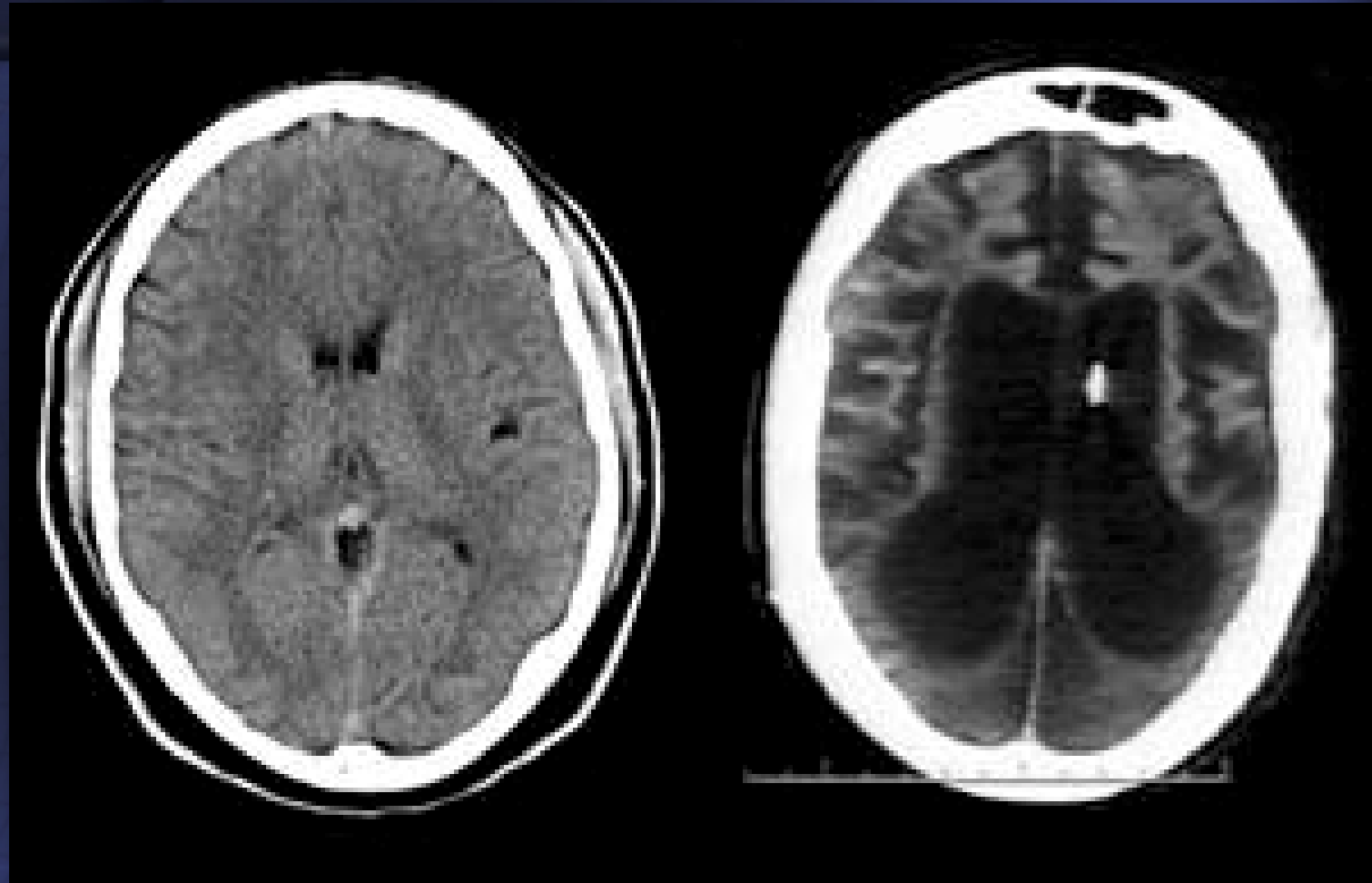
- cardiac arrest from a greatly reduced potassium level
- may be linked to her drinking 10-15 glasses of iced tea each day
- related to aggressive weight loss, diet control and excessive hydration
- may have suffered from bulimia, an eating disorder where purging through vomiting and laxatives may become obsessive

2) Was Terri abused?

- Medical records indicate that the potassium imbalance led to her arrest
- Michael's 1990s lawsuit:
 - Jury award for medical negligence in failing to diagnose bulimia
 - Doctors would have had a vested interest in proving abuse, if it had occurred
 - Settlement: \$750,000 for Terri and \$300,000 for Michael
 - No witnesses to any abuse

3) What was Terri's diagnosis?

- brain deterioration from lack of oxygen
- 1996, 2002: CAT scans → severely abnormal
- much of cerebral cortex simply gone
- replaced by cerebral spinal fluid
- unconscious, reflexive, totally dependent state
- only debate between the doctors:
 - small amount of isolated living tissue in her cerebral cortex
 - or none
- clinically, in a persistent vegetative state or a minimally conscious state
- (the courts & most physicians favored the former)



Left: CT of normal 25 year-old's brain

Right: CT of Terri at age 38 (2002)

Some Key Ethical Issues

1) PVS is Not “Brain Death”

- “Brain death” (Harvard):
 - Better term: “death by neurological criteria”
 - No reflexes (e.g., pupil reaction)
 - No spontaneous breathing (ventilator dependent)
 - Flat EEG
 - Requires: no drugs, normal temperature

1) PVS is Not "Brain Death" (cont.)

- Persistent Vegetative State:
 - State of persistent unresponsiveness
 - Sleep / Wake cycles
 - Law does not permit declaration of death
 - Clinical diagnosis
 - Difference between PVS and MCS may be subtle
 - Prognosis may be difficult to determine

2) Patients in PVS are Persons

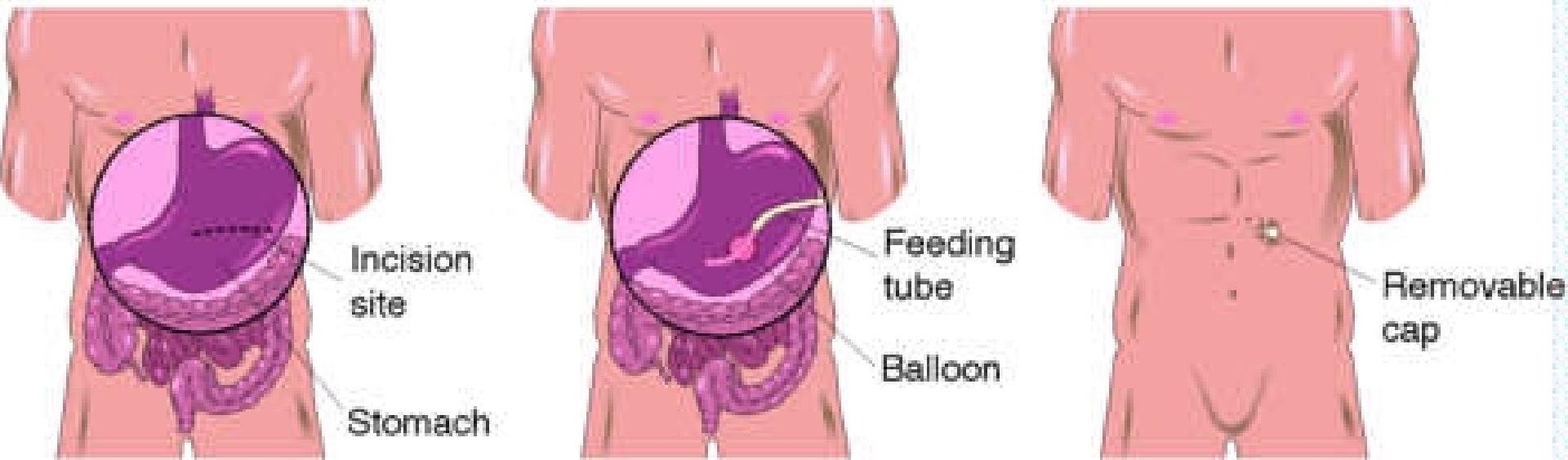
- No criterion for declaring Terri a “non-person”
- Cannot donate her organs
- Cannot legally seize her property

3) Patients may Refuse Medical Treatments

- Competent patients and their surrogates have the right to refuse medical treatments
- Acknowledging Terri's personhood does not mean that all treatments are indicated
- Some treatments may be inappropriate

4) Is ANH a Medical Treatment?

A Typical Feeding Tube:



Ethics & Life's Ending: An Exchange

Robert D. Orr & Gilbert Meilander

First Things 145 (August/September 2004): 31-37

<http://www.firstthings.com/ftissues/ft0408/articles/exchange.htm>

Robert Orr:

- Three important considerations:
 - “ordinary” v. “extraordinary” treatments
 - social symbolism of feeding
 - withholding v. withdrawing treatments

“Ordinary” v. “Extraordinary”

- Traditional distinction in moral philosophy
- “Ordinary” = morally obligatory
 - Food
 - Water
 - Antibiotics
- “Extraordinary” = optional
 - Ventilator
 - Kidney dialysis
 - Heart transplant

Proportionate v. Disproportionate

- As medical care gets more complex, the ordinary/extraordinary distinction may not be helpful
- Proportionate v. disproportionate reflects an emphasis on the patient, rather than the treatment
- i.e., proportionate for one may be disproportionate for another
- (example of ventilator)

The Social Symbolism of Food and Water

- Nutrition is nurture
- Therefore, never optional
- However, if the patient is permanently unable to swallow, this merely prolongs the dying
- A feeding tube, though a “minimum” intervention technologically, may still be disproportionate if prognosis is poor

Withholding v. Withdrawing Treatments

- No moral or legal difference between withholding and withdrawing a treatment
- “Trial of therapy” commonly used
 - Trial of ventilator
 - Trial of chemotherapy
- Though psychologically more difficult, futile treatments may be withdrawn
- Note: Care is never futile (only some treatments)

Gilbert Meilander:

- Conclusions about treatments are not “discoveries,” but decisions – and the patient in PVS cannot make them
- Symbolism or not, feeding is just good nursing care, not a medical treatment
- The moral distinction between withdrawing and withholding is real if the patient is not terminal

My Own Thoughts

or

“How to Live Dangerously”

Ethical Observations

- Terri Schivo was not terminally ill
 - How then do we apply the phrase “futile treatment?”
 - Ethically, PVS v. MCS not a critical distinction
 - Though not terminal, not likely to improve

Ethical Observations (cont.)

- Opposing withdrawal of ANH accords with our intuition
 - Papal statement has merit
 - Accords with natural law ideas of the way we are made
 - In the absence of clear patient guidance, seems obligatory

Ethical Observations (cont.)

- On the other hand . . .
 - If ANH demands “high technology,” could it not be disproportionate?
 - Example of TPN
 - At what point does technology become unnecessarily burdensome?

Ethical Observations (cont.)

- Three standards for decision-making in medicine:
 - Informed consent
 - Substituted judgment
 - Best interests

Determining “Best Interest”

- Assume (for the sake of argument):
 - Terri was really in a PVS
 - Michael was an inappropriate surrogate
 - We really do not know Terri’s wishes (contrary to court rulings)
 - We must apply the “best interests” standard

Determining "Best Interest"

- **Polling the Public (from www.sourcewatch.org)**
 - March 27, 2005: "Most Americans, even those who call themselves born-again or evangelical Christians, support the decision to remove Terri Schiavo's feeding tube."
[Time.com, April 4, 2005, issue.](#)
 - A [survey](#) released on March 21, 2005 by ABC News that shows 63 to 28 percent support for removal of Terry Schiavo's feeding tube.

A Disturbing Premise:

- Even if we have no idea what Terri would want, the consensus seems to favor tube removal
- Applying the “best interests” standard would imply that the “right” decision was made

A Disturbing Question:

- My pro-life instincts tell me to resist withdrawing ANH in severely handicapped persons who are not terminal
- Yet I personally would want the tube pulled if I were in Terri's situation
- Most people agree with this idea
- How can we not allow Terri to have the same right?

SCHIAVO
THERESA MARIE
BELOVED WIFE

BORN DECEMBER 3, 1963
DEPARTED THIS EARTH
FEBRUARY 25, 1990
AT PEACE MARCH 31, 2005

I KEPT MY PROMISE



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