

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**THERESA MARIE SCHINDLER
SCHIAVO, Incapacitated ex rel,
ROBERT and MARY SCHIAVO,
her Parents & Next Friends,**

Petitioners,

v.

Case No. 8:05-cv-522-T-30TGW

**THE HONORABLE GEORGE W. GREER,
Circuit Court Judge, Sixth Judicial Circuit of
the State of Florida, in his official capacity,
and as Surrogate Health Care Decision-
Maker for Theresa Marie Schindler Schiavo,
Incapacitated; MICHAEL SCHIAVO, as
Guardian of the Person of Teresa Marie
Schindler Schiavo, Incapacitated; and
THE HONORABLE CHARLIE CRIST,
Attorney General of the State of Florida,**

Respondents.

ORDER

THIS CAUSE come before the Court upon Petitioners' Emergency Petition for Temporary Injunction and Petition for a Writ of Habeas Corpus (Dkt. # 1). Robert and Mary Schindler,¹ on behalf of their incapacitated daughter Theresa Marie Schiavo, have petitioned the Court for a Writ of Habeas Corpus and temporary restraining order enjoining the withholding of food and fluids from Ms. Schiavo. Petitioners allege that Respondents have

¹ The caption of Petitioners' Emergency Petition for Temporary Injunction incorrectly identifies Robert and Mary Schindler as "Robert and Mary Schiavo."

violated Ms. Schiavo's rights under the Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States. The Court, having given the Petition the utmost consideration, finds that it should be denied.

This Court concurs with Judge Lazzara's previous decisions holding that the Court has no jurisdiction to review Petitioners' claims under the Rooker-Feldman doctrine. See Robert Schindler v. State of Florida, 8:01-cv-784-T-26EAJ, Dkt. # 12; Robert and Mary Schindler v. Michael Schiavo et al., 8:03-cv-T-26EAJ, Dkt. # 58; see also District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923). The Rooker-Feldman doctrine provides that "a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States District Court based on the losing party's claim that the state judgment itself violates the loser's federal rights." Johnson v. DeGrandy, 512 U.S. 997, 1005-06 (1994). The Rooker-Feldman doctrine not only bars review of issues that were adjudicated by the state court, but it also prohibits federal courts from reviewing issues that are "inextricably intertwined" with the state court's judgment. See Goodman ex rel. Goodman v. Sipos, 259 F.3d 1327, 1332 (11th Cir. 2001).

Petitioners have previously litigated their claims in state court and now, in effect, seek a review of various state courts' decisions involving Mrs. Schiavo. See generally In re Guardianship of Schiavo, No. 2D05-968, 2005 WL 600377 (Fla. 2d DCA Mar. 16, 2005) (outlining this matter's extensive state court legal history). But this Court is not an appellate court for state courts' decisions. Moreover, Petitioners cannot escape the fact that their

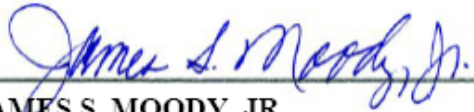
claims are “inextricably intertwined” with the numerous state courts’ decisions involving Mrs. Schiavo. As Judge Altenbernd observed, “[n]ot only has Mrs. Schiavo’s case been given due process [in state court], but few, if any, similar cases have ever been afforded this heightened level of process.” In re Schiavo, 2005 WL 600377 at * 3. The fact that Petitioners have exhausted their state court appellate options without success does not provide this Court with jurisdiction over this matter. Therefore, the Petition for a Writ of Habeas Corpus is denied.

Additionally, Petitioners have failed to satisfy the elements for a temporary restraining order. A party seeking a temporary restraining order must establish that: (1) there is a substantial likelihood that the moving party will prevail on the merits; (2) the moving party will suffer irreparable injury if the temporary restraining order is not granted; (3) the threatened injury to the moving party outweighs the threatened harm the proposed injunction may cause the opposing party; and (4) the injunction, if issued, would not be adverse to the public interest. See Johnson v. U.S. Dept. of Agriculture, 734 F.2d 774, 781 (11th Cir. 1984). Having reviewed the Petition, the Court finds that there is not a substantial likelihood that Petitioners will prevail on their federal constitutional claims. Accordingly, Petitioners’ Emergency Petition for Temporary Injunction is denied.

It is therefore ORDERED and ADJUDGED that:

1. Petitioners’ Emergency Petition for Temporary Injunction and Petition for a Writ of Habeas Corpus (Dkt. # 1) is DENIED.
2. The Clerk is directed to close this case.

DONE and **ORDERED** in Tampa, Florida on March 18, 2005.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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