

**JAY SEKULOW LIVE!**  
**03.04.05**

Jay: This is Jay Sekulow. New evidence disclosed in the Terri Schiavo case.

Gene: This is *JAY SEKULOW LIVE!* From Washington, Chief Counsel of the American Center for Law and Justice (ACLJ), Jay Sekulow.

Jay: There are some new developments in the case involving Terri Schiavo. Here's what's happened: a number of media sources had requested access to files concerning alleged cases of abuse involving Terri Schiavo. Now, it's important to point out at the beginning that the evidence which has now been disclosed (the reports have been disclosed) does not name anyone as culpable or responsible. This is the type of information that the departments have wanted to get and review in this particular case. Again, no evidence pointing to or at least no disclosures or evidence reporting to Michael Schiavo as the person responsible for any of this—we need to be very clear about that. However, this is part of the difficulty in a case like this. We are basically under a time frame that is rapidly approaching. On March 18<sup>th</sup>, Judge Greer has ordered the removal of Terri's feeding tube, so her process towards this death—and I know this graphic and I hate even having to use these phrases, but that's what it is. It starts on the 18<sup>th</sup> of March.

There are a lot of options. As you know, Governor Bush has requested that the Child & Family Services Unit of the governor's office get involved in the process. They have and they have asked to intervene. That intervention was basically put off and denied in context; but there are going to be some very quick appeals on the issue of the stay expiring. I really think, as I said yesterday, that the legal options are starting to run out here and there are some options possibly within the state legislature. But the American people are going to have to be heard on this. The legislature, frankly, is a little bit shy on this because what they already tried to do once was struck as unconstitutional.

Gene: Let's review that, Jay, because the legislature and Florida Governor Jeb Bush did intervene once previously in the passage of what became known as "Terri's Law." That went through a long and tortured process in the legal system in Florida and was ultimately declared unconstitutional, right?

Jay: That's exactly correct. So, there are other alternatives. Our lawyers in Washington have been working with lawyers in Florida to look at all of the legal options. There are a number of those being considered as well as the legislative options. But the Florida Supreme Court declared "Terri's Law" unconstitutional; then, as everyone will remember, about two weeks ago, the Supreme Court of the United States let that decision stand. All of us were disappointed in that. We represented the Schindlers (Terri's parents) in that matter before the Supreme Court of the United States.

Now, here's what we need to look at next—the legislative response. There is no living will here, remember; and we are also not talking about ventilation. We're talking about someone who breathes on their own. This is hydration and nutrition. Here's what we think needs to happen. There needs to be a very quick, direct legislative response so that this process starting March 18<sup>th</sup> is brought to a halt. To do that, we have to hear from people around the country. We already started yesterday. There is a lot of concern about this. We want to encourage people to be involved in this process.

By the way, it's very straightforward what we're asking for, and that is, we want the legislator to intervene so that come March 18<sup>th</sup>, her feeding tube is not removed. I think this is a horribly dangerous precedent. I mentioned yesterday, at the same time, the Supreme Court of the United States about a week ago agreed to take a case out of Oregon involving assisted-suicide. The use of controlled substances by doctors to not help someone in recovery but to end someone's life, which is not a legitimate use of the Schedule C narcotics. The Attorney General John Ashcroft had filed a suit there against the State of Oregon. Of course, Oregon has been very aggressive on this euthanasia issue. We are combating that at the Supreme Court of the United States now. It's a major case with big ramifications. Three lawyers at the American Center for Law and Justice are already working on it. There are a lot of issues at play regarding the life issue, but on the Terri Schiavo matter, it's very straightforward—we need to hear from the American people.

Gene: Jay, we put together a petition that's going to the Florida governor's office and the state legislature there. It's very simple and direct. It says:

“Terri Schiavo is facing a death sentence. A Florida court decision clears the way for her feeding tube to be removed by her husband, triggering a torturous process that will result in death by starvation and dehydration. The fact is, time is running out. We're exploring all legal avenues, but we are also asking Florida Governor Jeb Bush and the state legislature to take whatever action is necessary to save the life of Terri Schiavo.”

If you agree, then your name needs to be on this; right, Jay?

Jay: Absolutely. This is one of those situations where numbers are going to make a difference. As soon as we hit 10,000 names, I'm letting the folks in Florida know. We heard from about 3,000 yesterday.

Gene: Add your name to our petition right now: Save Terri Schiavo! That's what this is about. Call toll-free and add your name at 1.877.989.2255. Thousands have already called to add their name. You can too. Here's the toll-free telephone number: 1.877.989.2255. If you'd like, you can add your name online at the website. The petition is posted there as well at [www.aclj.org](http://www.aclj.org). Back in a moment.

[*ACLJ This Week Spot; Terri Schiavo Petition Spot*]

Jay: Welcome back to the broadcast, everyone. If you get the Trinity Broadcasting Network or Inspiration Network (and that covers most of the country), we encourage you to tune in tonight and watch to our *ACLJ This Week* broadcast. Also, on our website, we post daily audio updates, 1-minute spots dealing with cases we are involved in. We also have a video report that came right from the Supreme Court of the United States when I made a statement right afterwards and summarized what happened in the cases. All that information is available at the website at [www.aclj.org](http://www.aclj.org). We have all the TV networks and times posted so you know where to tune to *ACLJ This Week*. Once again, we encourage you to watch this evening.

Also, my son's show, *The Logan Show*, is on tomorrow on a number of networks around the country, including FamilyNet, Inspiration, iLife and JC-TV; and you can find out about it at [www.theloganshow.com](http://www.theloganshow.com).

Before we get to the calls, let me reiterate what our plan is in the Terri Schiavo case. I have been in contact with David Gibbs, the attorney in Florida who's primarily handling the Florida matters. Remember, the Supreme Court, at this point, is finished. So, everything is focused on Florida now. There may be some stay opportunities going to the Supreme Court of the United States. We're looking at those issues right now. I think the action, though, is legislatively; that's where it needs to be. Sen. Daniel Webster from Florida, state Senator, is one of the most sympathetic voices we have on this. We're going to be in contact with him as early as today and then every day throughout the next two weeks until we get some kind of legislative response so that the feeding tube is not removed. We do want to hear, as Gene mentioned, from you and I encourage you to call our toll-free number and add your support to that. Even if you are outside of Florida, we want to hear from you as well.

Gene: The toll-free number to call to add your name to our petition is 1.877.989.2255. That's the number to call if you like to see the Florida governor and the state legislature in Florida get involved to help save Terri Schiavo's life. Here's the toll-free telephone number: 1.877.989.2255. We know a lot of people are calling now; if you get a busy signal, call back 1.877.989.2255 or you can sign electronically online at the website at [www.aclj.org](http://www.aclj.org).

Jay: Gene, I'm formulating a plan right now to send some of our national staff who are involved in our Legislative Affairs office (Drew Ryun; Donn Parsons, his assistant; and a couple of others) down to Florida to work with the legislature there. That process will probably start sometime next week; I haven't made a final determination as to exactly the day we're going to deploy them—I want to make sure we have enough names and support so that we can at least start making an impact here. This is critically important and I don't want to take anything for granted at this point.

Gene: It's very important that we hear from you. Call right now, toll-free 1.877.989.2255. That's the number in place: 1.877.989.2255. If you'd like, you can add your name online at the website as well. The petition is posted there as well at [www.aclj.org](http://www.aclj.org).

Let's go to the phones. Pam has a question about the Terri Schiavo matter from Nevada. Pam, you're on the air with Jay. Go ahead.

Pam: Is there some sort of legal brief or statute that Jay Sekulow could use to file on behalf of Terri Schiavo's family to just award them temporary custody so that they could have 60 days to show that with proper medical care and rehabilitation that Terri would improve since that's been withheld from her?

Jay: They've been trying to get this guardianship issue changed for about four years now. It just has not been successful in court. The lawyers have been very aggressive in trying to get that changed and get it put in place; but as it stands right now, the fact is they have not been able to do so, which is really unfortunate. I think that option is still out there, but it's not the logical option at least for the courts right now. I think it makes perfect sense to do it, but they are just not doing it. The Schindlers are very willing to take care of their daughter. Her brother was on TV the other day saying he's willing to take care of his sister. Every option is being explored—it's a question of what is the most realistic. The legislature wants to do something. This is going to become a national issue very soon here as we get closer to this. I am planning on putting our team on the ground in Florida to do work there. We're looking at all options available legislatively.

Gene: We're taking your calls right now, your questions for Jay at 1.800.684.3110. That's the studio line. Give us a call at 800.684.3110. Let's go to Leigh on Line 1 joining us from Minnesota. Leigh, go ahead please. You're on the air with Jay.

Leigh: My husband is a school teacher and wants to give away free books about how to accept Jesus Christ in the teachers' lounge in a public school. He'd be giving them away free on a table. What would you say about that?

Jay: It depends where exactly it's going to be left. Giving them to students will be off limits under the Supreme Court's interpretation. Putting them in the teachers' lounge, though, with other material would be perfectly fine. It really depends on who the audience is and exactly what's being done. Generally, if it's teacher to teacher, it's no problem. If it's teacher to a student, it presents a difficult and, at this point, impossible case.

Gene: A reminder to folks listening to this broadcast, too. This was a very important week in Washington with our oral arguments before the Supreme Court of the United States in the two cases involving the Ten Commandments. We're going to leave up on our website through the weekend some of the most important information: a couple interviews you did with the *O'Reilly Factor*, *CNN Crossfire*, those transcripts are up. We also have a video report that you made from the steps of the Supreme Court after the oral arguments. This is still an issue people want to put into, right?

Jay: That's absolutely the case. We were glad to be there. Mat Staver did a great job. The Attorney General of Texas did a wonderful job. I think we are going to see some wins in the case. As I mentioned the other day, I think the Texas case was a clear win in our direction. The case out of Kentucky was a little more difficult on a procedural issue, but I'm optimistic there too—I think we're going to see a win.

Gene: Jay, I read a number of media counts, and I'm getting conflicting information. Maybe you can clear this up. Chief Justice William Rehnquist, of course, was absent from the proceedings this week at the Supreme Court. He is at home working with his cancer treatment. Will he or will he not participate in the Ten Commandments decision?

Jay: Let me tell you exactly what happened, Gene, because I was there. I've seen the conflicting reports as well in the last two days. But there was a difference in what Justice Stevens, the acting Chief in the oral argument (the chair that the Chief sits in is empty; it's still there; they don't remove it), who had been saying that the Chief Justice will participate in the decisions of the case and will review the transcripts and the arguments. On this particular day, Justice Stevens stated that while the Chief Justice is not present, he reserves the right to vote in cases by reading the briefs and the transcripts of oral argument. So, a big difference there as far as statements; so no one knows exactly how that will play. But there's a critical vote we need; we want the Chief Justice to be participating in this. That's very important for us.

Gene: Let's go to New York. We have a Ten Commandments question from Ernest. You're on the air with Jay, go ahead please, Ernest.

Ernest: I just don't like what they are doing with the Ten Commandments. I'd like to see them remain in the public facilities. This is a Christian country, and I'd like to see it remain that way.

Jay: Well, it's a country that clearly was founded on Judeo-Christian principles. There's no doubt about that. The idea that the Ten Commandments would be sandblasted from the halls of Congress or out of the legislature is just absolutely wrong in my view. Having said that, I think we have to realize that that's why we're at the Supreme Court of the United States. We have about a dozen of these cases in litigation right now. We had a big win at the Seventh Circuit where a three-judge panel, appellate court, said that the monument in Madison, Wisconsin, could stay up from the Fraternal Order of Eagles. The issue came up at the Supreme Court of the United States where Justice Stevens, which is a vote you normally don't get in these cases, said he thought the Madison case was right. We won that case, so there was some good precedent there. Justice Breyer quoted from a section of our brief involving a statement where we quoted Justice Goldberg. So, some good discussion taking place there. We'll get the decision and will know exactly where we stand in the next 90 days.

Gene: Let's go to New York with Julio on the line with us. Your question, please, for Jay.

Julio: It's an honor to speak to you. I'm just concerned about the Terri case. If parents are mistreating their children, the custody of the children can be taken away from the parents. In this case, why can't it be taken away from the husband?

Jay: We've been asserting that and there are all kinds of allegations flying around, but no evidence that's been submitted that's convinced the court of any kind of abuse. Everybody's been very careful there. I need to say that again. Family Services has obtained (and I guess it's now public) some internal documents, but it does not name the husband as the abuser. So, it's very important to understand that. But, the parents are willing to take care of Terri, and that in and of itself should be sufficient to allow her to live.

Gene: Jay, you mentioned the reports by the Florida Department of Children and Families. They have sought to intervene in the case. They have released a 34-page document outlining those allegations that came via an abuse hotline by what press reports call "an unidentified person or group." So, as you say, there are 30 allegations of abuse that they want to investigate, but they are not saying where they came from at this point.

Jay: I don't want to draw speculation. What we need to do is keep our efforts right now focused. David Gibbs is handling the legal side of this down in Florida and that's where it is right now. It may go to the Supreme Court of the United States; and believe me, if it does, we will file briefs to try to get the Court to hear the case. Right now the focus has to be on the legislative function.

Gene: What we are doing at the American Center for Law and Justice is putting together this petition campaign. We're going to petition the governor's office in Florida and the state legislature, urging/demanding that they take action to save the life of Terri Schiavo. Thousands have already responded to this petition and called to add their name. You can too. Here's the toll-free telephone number: 1.877.989.2255. If you'd like, you can add your name online at the website. The petition is posted there as well at [www.aclj.org](http://www.aclj.org).

Jay, you're going to keep the governor's office up to date on a daily basis, are you not?

Jay: Actually, as we're talking, Gene, I'm reviewing an email to get some of our legislative people working on this immediately in Florida. We're getting people on the ground. This is being worked on, but we do need to hear from our friends around the country.

Gene: Add your name to our petition right now: Save Terri Schiavo! That's what this is about. Call toll-free and add your name at 1.877.989.2255. We want to hear from you today. If you'd like, you can add your name online at the website. The petition is posted there as well at [www.aclj.org](http://www.aclj.org). Stay with us. Much more ahead.

*[Terri Schiavo Petition Spot; The Logan Show Spot]*

Jay: Welcome back to the broadcast, everyone. It's a big night on television for the American Center for Law and Justice. *ACLJ This Week* will be on the air on the Trinity Broadcasting Network and on Inspiration Network this evening at either 7 o'clock or 8:30 p.m. East Coast time. I encourage you to do that. It's a great new program dealing with the issues that matter and count. Also, tomorrow night, my son's program, *The Logan Show*, is available on a host of networks, including JC-TV, FamilyNet, Inspiration television. There's a link on our website [www.theloganshow.com](http://www.theloganshow.com); if you have teenagers or college students, it's a great clean program with Christian comedy, great fans and great music.

In Washington, this was a busy week as you can imagine. We had moot courts on Monday and even some work with them on Tuesday; oral arguments Wednesday in the Supreme Court cases where we gave live reports as to what happened there; and literally that afternoon, we went over to the halls of Congress to work with our good friend, Congressman Walter Jones on the issue of the free speech bill, protecting churches from the muzzle of the IRS when it comes to church pastors speaking out on the issues of the day, addressing candidates and things like this. Great support; a big press conference there. We have an update posted to the *Washington* section of our website at [www.aclj.org](http://www.aclj.org), so go there for some great information. New material is being posted daily on the website. We put up new audio reports, 1-minute reports, every morning on our website; and we also have a video report that you can download very quickly that's right from the Supreme Court of the United States. You're not going to want to miss that!

Gene: Jay, when you talk about this Houses of Worship Free Speech Restoration Act, Walter Jones' measure—it's the fourth time, by the way, being introduced in this new session of Congress--you were at a news conference right after the Supreme Court arguments in the Ten Commandments cases. I know a lot of people turned out for that and you were able to communicate that the IRS really has no business in muzzling pastors and nonprofits, right?

Jay: We had a huge response. I was surprised because that day also involved the Ten Commandments, but the room was packed with Congressmen, pastors and clergy. I spoke as a lawyer, Colby May from our office spoke as well, and we tried to get the message received that churches need the ability to speak out on these issues.

Gene: We have a great piece posted in our *Washington Report* on the front page of our website at [www.aclj.org](http://www.aclj.org), a little update about that new piece of legislation being reintroduced by Walter Jones in the U.S. House of Representatives.

Let's go back to the phones now with Terri in North Carolina. Terri, welcome to the broadcast, go ahead please.

Terri: I don't understand how a public school can require an honors English student to read a book that has to deal with pedophilia. When the parent went to complain, the teacher

said, “Well, if he can’t handle objectionable materials, then maybe he shouldn’t be in the Honors class.” I just don’t understand how a public school could get away with that.

Jay: They shouldn’t be able to get away with that. The response should have been from the parents and it certainly will be from the American Center for Law and Justice, “How about not assigning material that talks about an inappropriate topic for an eighth grader, especially an honor student.” If the parent objects or the child objects, then give the child another assignment. This is an honor student. It should be the same, by the way, for any student. But the idea that you would take an honor student and say, “If you don’t read this material about pedophilia, then your somehow going to get a lesser grade or not be able to stay in the class” is ridiculous. It’s wrong. It’s something we need to respond to aggressively, and we are willing to do that at the American Center for Law and Justice. We need to get the parent on the phone. You get us that information, and we will get you some help.

Let’s think about this for a moment. We have a school district that is teaching honors students, and the material the teacher picks for the class involves pedophilia. Let me ask one simple question: Where’s the school board curriculum committee in this? I find it hard to believe that a school district in North Carolina is going to allow that kind of material to be placed in a public school curriculum for students and then not allow someone to object if the parent finds the material offensive or if the students doesn’t want to expose themselves to this. I think it’s just ridiculous. We are going to get in touch with that school district and maybe give them a little lesson in the First Amendment. It works both ways.

Gene: You wonder who approved it; does anyone beyond the teacher know what’s going on?

Jay: That’s what I’m saying. Was the curriculum committee involved in this? They are the most powerful committee of a school district and school board, or was it something of the teacher’s own choosing. I don’t know the answer to that, but we will get those answers and get involved.

Gene: Let’s go to Georgia where Shirley is joining us on the phone. Go ahead, you’re on the air with Jay.

Shirley: I would like Mr. Sekulow to explain the separation of church and state.

Jay: In five minutes or less—we don’t have enough time. We’re going to find out what it means in a few minutes. I will tell you something, what I want to do in this particular situation. As a policy right now, what I think we need to see happen is let the Supreme Court decide on the cases involving the Ten Commandments. We’re going to get a clearer understanding of where the Court wants to draw lines with regard to church-state relations. From there, we will develop a strategy to implement in other contexts in other cases. I’m writing a book dealing with a lot of this right now, so there’s a lot of material available.



Gene: Let's go to Line 6 where we have Michelle joining us out of California. Michelle, you're on the air with Jay. Go ahead, please.

Michelle: I wanted to know why the clergy cannot step in for Terri Schiavo since her husband has another woman and children with another woman. Can't the marriage be annulled, which would then possibly give her back to her parents?

Jay: They've been looking at that option of either divorce or annulment or some kind of custody change. All of that is being pursued. What I'm saying is right now as those are being pursued, we need a legislative option here because according to Judge Greer, the feeding tube is going to be pulled on the 18<sup>th</sup> of March, which is not that far away—we're talking less than two weeks. We want everybody to participate. I'm getting staff on the ground in Florida to work on this situation.

Gene: Looking at a press report now that we have posted online at [www.aclj.org](http://www.aclj.org), we talked about the Florida Department of Children & Family petitioning the court to get involved in the Terri Schiavo case. The circuit court judge has now apparently scheduled a hearing for next Wednesday to consider their request to intervene. Of course, they are the ones holding this 34-page document with some 30 allegations of abuse, neglect, and exploitation of Terri Schiavo, Jay.

Jay: That's exactly correct. I think we have to realize in looking at this is the fact that all of these allegations—as I said, there's no proof as to who yet, so we're not accusing anybody—but all of this is coming to light. We need to make sure the legislature allows Terri to live so everything could be looked at here.

Gene: Let's go to Dawn in Illinois with a Terri Schiavo question. Go ahead, Don, you're on the air.

Don: I have a question as to why Jay differentiates between someone who is on life support meaning a ventilator and life support meaning through nutritional value means.

Jay: That's a great question. It's not that I don't think any life is not worthy of protection and dignity; but when ventilators are implemented, there are a different set of laws that come into play. A ventilator is deemed to be—plenty of people have been on ventilators and have recovered, so don't take it the wrong way—a different means of life support. Generally, when someone's taken off a respirator and they don't have any other body functions, they quickly die. I'm not saying that's right or wrong. Individuals can determine that fate; but here we're not talking about that. Terri breathes on her own. She has a sleep cycle. She wakes up. The difference is she is not communicative in a full sense. There is some communication from Terri—you see that in the videos; to me it seems clear that she is aware of at least her surroundings. But the idea here is that you don't starve someone to death. I know that's a very graphic statement, but that's what we are dealing with. That's where the difference comes into play.

Gene: Sally is calling from Florida on Line 9. Sally, quickly, please, for Jay.

Sally: I would like to know why the churches are not in more of an outcry, and why they are petitioning the states to stop this killing of Terri Schiavo because I have a daughter exactly like Terri Schiavo, and I am afraid that this is setting a precedent to this kind of killing.

Jay: We appreciate your call and, believe me, I understand the plight you are in, although I cannot fully grasp it; none of us can. Churches are reacting. People are calling. We received 3,500 calls yesterday. We'll receive more today. We want to make sure the Florida legislature intervenes here and we are asking the American people to respond. As I said, at the same time, there is a case involving assisted suicide now at the Supreme Court of the United States that we're involved in. So, here we go again on a major case. We want to see the Florida legislature do the right thing.

Gene: We are petitioning the governor's office and the state legislature to get involved and intervene in the case of Terri Schiavo. If you would like your name on this petition, call right now toll-free at 1.877.989.2255. If you'd like, you can add your name online at the website. The petition is posted there as well at [www.aclj.org](http://www.aclj.org).

That will do it for our broadcast today. Thank you so much for being with us. We will talk to you next time on *JAY SEKULOW LIVE!*