

IN THE SUPREME COURT OF THE STATE OF FLORIDA

JEB BUSH,  
Governor of the State of Florida,

CASE NO.:

2<sup>nd</sup> DCA CASE NO. 2D04-2045  
L.T. Case No.: 03-008212-CI-20

Appellant,

v.

MICHAEL SCHIAVO, as Guardian of  
the Person of THERESA MARIE SCHIAVO,

Appellee.

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APPELLANT'S MOTION TO FILE JURISDICTIONAL BRIEF

The Appellant, JEB BUSH, GOVERNOR OF THE STATE OF FLORIDA, (the "Governor"), by and through undersigned counsel, hereby moves this Court for permission to file a jurisdictional brief concerning the June 1, 2004 Order of the Second District Court of Appeal certifying this matter to the Florida Supreme Court as requiring immediate resolution (hereinafter, "Certification Order").

FILED  
THOMAS D. HALL  
2004 JUN -3 A 11: 16  
CLERK, SUPREME COURT

1. The instant appeal follows from a May 14, 2004 order of the trial court entering a Summary Final Judgment for Michael Schiavo. A copy of the Summary Final Judgment was provided to this Court as an appendix to the Certification Order.

2. Pursuant to Fla. R. App. P. 9.030(a)(2), the discretionary jurisdiction of the Florida Supreme Court may be sought to review:

(B) orders and judgments of trial courts certified by the district court of appeal in which the appeal is pending to require immediate resolution by the supreme court, and (i) to be of great public importance, or (ii) to have a great effect on the proper administration of justice.

3. This discretionary, or “pass-through,” jurisdiction is also provided for in the Florida Constitution on the same grounds. FLA. CONST. art. 5 § 3(b)(5). Review under this procedure should be granted sparingly. *Florida Department of Agriculture and Consumer Services v. Haire*, 832 So. 2d 778 (Fla. 4<sup>th</sup> DCA 2002) (When certification is made “we thereby bypass the constitutional right to review in the district courts of final judgments of the circuit courts. Thus it should be rare that we consider doing so.”).

4. The Governor respectfully contends that this appeal does not require immediate resolution as a matter of great public importance nor as a matter greatly affecting the administration of justice throughout the state.

The Governor further contends this appeal is not ripe for review by this Court due to unresolved factual issues in the underlying litigation.

5. Recognizing that no express provision is made under Fla. R. App. P. 9.125 for filing of jurisdictional briefs, the Governor thus respectfully asks this Court for leave to file a jurisdictional brief. *See* Fla. R. App. P. 9.300(a). The Governor makes this request in order to assist the Court in correctly deciding whether to exercise its discretionary jurisdiction in this case. *See* Art. V, § 3(b)(5), Fla. Const.; Fla. R. App. P. 9.030(a)(2)(B).

WHEREFORE, Appellant Jeb Bush, Governor of the State of Florida, respectfully requests that this Honorable Court grant the present motion and allow leave for Appellant to file a jurisdictional brief in this case.

Respectfully submitted this 2nd day of June 2004.

Respectfully submitted,

Counsel for Jeb Bush, Governor of the State  
of Florida



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to **George J. Felos**, Felos & Felos, P.A., 595 Main Street, Dunedin, Florida 34698; to **Thomas J. Perrelli**, **Robert M. Portman**, **Nicole G. Berner**, Jenner & Block, LLC, 601 13<sup>th</sup> Street, NW, Suite 1200, Washington, DC; to **Randall C. Marshall**, Legal Director, American Civil Liberties Union of Florida, 4500 Biscayne Blvd., Suite 340, Miami, Florida, 33137; to **Jay Vail**, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399; and to **David Cortman**, ACLJ, 1000 Hurricane Shoals Road, Suite D-600, Lawrenceville, GA 30043; on this 2nd day of June 2004.

  
KENNETH L. CONNOR  
CAMILLE GODWIN

**CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing complies with the Florida Rules of Appellate Procedure 9.210 requiring the font size of the type herein to be at least fourteen points if in Times New Roman format.

  
KENNETH L. CONNOR  
CAMILLE GODWIN