**IN THE DISTRICT COURT OF APPEAL**
**OF THE STATE OF FLORIDA**
**FOURTH DISTRICT**

**CASE NO.: 4D03-4973**

**RUSH LIMBAUGH,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

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**ON APPEAL FROM THE CIRCUIT COURT**
**FOR THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA**
**PALM BEACH COUNTY**

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# BRIEF OF AMICUS CURIAE AMERICAN CIVIL LIBERTIES UNION OF FLORIDA, INC. FILED BY LEAVE OF COURT AND IN SUPPORT OF THE APPELLANT

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## INTEREST OF AMERICAN CIVIL LIBERTIES UNION

The proper resolution of this appeal is a matter of substantial concern to the American Civil Liberties Union of Florida. The ACLU is a nationwide nonpartisan organization of nearly 400,000 members dedicated to protecting the fundamental liberties and basic civil rights guaranteed by the state and federal Constitutions. The ACLU of Florida is its state affiliate and has approximately 18,000 members in the State of Florida also dedicated to the principles of liberty and equality embodied in the United States Constitution and the Florida Constitution. The ACLU has a long standing interest in protecting the privacy rights of individuals and has participated in some of the most important constitutional cases before the courts dealing with such protections. See. e.g. *Griswold v. Connecticut*, 381 U.S. 479 (1965)(striking down Connecticut law forbidding use of contraceptives); *Lawrence v. Texas* ___U.S. ___, 123 S.Ct. 2472 (2003)(striking down Texas sodomy statute). In Florida, the ACLU has participated in cases dealing with the constitutionality of laws infringing upon the right to privacy guaranteed by the Florida Constitution as well. *North Florida Woman's Health and Counseling Services, Inc.*, ___So. 2d___, 2003 WL 21546546, 28 Fla.L.Wkly. S641 (July 10, 2003) (striking down Florida Parental Notice of Abortion Act). As *amicus*, the ACLU seeks to vindicate the right of every citizen of Florida to preserve their privacy in the contents of their medical records.

## SUMMARY OF ARGUMENT

A patient's right to privacy in the contents of his or her medical records is guaranteed by Article I, Section 23 of the Florida Constitution. Under Florida law a patient's medical records cannot be disclosed in any civil or criminal action unless the patient is afforded a hearing pursuant to Florida Statute Section 395.3025. At such a proceeding the state has the burden of demonstrating that it has a compelling interest in obtaining the records, that the records sought are relevant to its investigation, and that there are no less intrusive means available to obtain the information needed for the investigation.

Obtaining medical records pursuant to a search warrant is not a substitute authorized either by the Florida Constitution or the Florida legislature. A search warrant provides no mechanism for a court to determine what portions of a patient's medical records are relevant. Consequently such a procedure may result in disclosure of treatments or conditions not relevant to any legitimate law enforcement investigation and which could materially harm a patient's professional, social, or personal life. The existence of such a procedure could well chill the relationship between doctors and patients who might be afraid of providing complete information knowing that someday that information could end up in the hands of third parties. Moreover, such information could be misused by state officials in their dealings with

the subjects of their investigations. Indeed, in the record before this Court there is compelling evidence that the State Attorney has already committed misconduct in the handling of sensitive information pertaining to its investigation.

The courts of this State have recognized that the right to privacy is one of the most important rights citizens of Florida possess, a right which can only be sacrificed for the most compelling of reasons. The interests at stake can only be preserved if the contents of a patient's medical records are revealed only as a result of a hearing pursuant to Florida Statute 395.3025, where the patient is afforded notice and an opportunity to be heard. The State herein must be compelled to follow the law.

## POINT I

## OBTAINING PATIENT MEDICAL RECORDS THROUGH A SEARCH WARRANT ISSUED IN AN *EX PARTE* PROCEEDING VIOLATES THE RIGHT TO PRIVACY GUARANTEED BY ARTICLE I, SECTION 23 OF THE FLORIDA CONSTITUTION

### 1. The Florida Constitution Guarantees the Citizens of this State the Right to Privacy in Their Medical Records and in Their Communications with Their Physicians

The Florida Constitution guarantees the privacy of communications between patient and doctor. Article I, Section 23 of the Constitution provides:

> Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

"It is this general right to privacy that protects against the public disclosure of private matters." *In re T.W.* 551 So. 2d 1186, 1191(Fla. 1989) (*citing*, *Nixon v. Administrator of General Servs*., 433 U.S. 425 (1977); *Whalen v. Roe*, 429 U.S. 589 (1977)). "This right of privacy has been described as 'the most comprehensive of rights and the right most valued by civilized man.'" *Rasmussen v. South Florida Blood Service, Inc*., 500 So. 2d 533 (Fla. 1987) (citations omitted) (upholding protective order on subpoena for identity of volunteer blood donors). [1] "Article I,

[1] See *Roe v. Wade*, 410 U.S. 113 (1973) wherein the Supreme Court reaffirmed the privacy rights given by our federal constitution, by way of

section 23, was intentionally phrased in strong terms." *Winfield v. Div. of Paramutual Wagering*, 477 So. 2d 544, 548 (Fla. 1985). Recognizing the importance that the citizens of this state attach to their privacy, the Florida Supreme Court has held that:

> The right of privacy is a fundamental right which we believe demands the compelling state interest standard. This test shifts the burden of proof to the state to justify an intrusion on privacy. The burden can be met by demonstrating that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least intrusive means.

*Id*. at 547.

### 2. The Florida Legislature, in Recognition of the Greater Level of Protection For Privacy Guaranteed by the Florida Constitution, Has Enacted a Specific Procedure Governing the Release of Patient Medical Records

Florida Statute Section 395.3025 proscribes disclosure of a patient's medical records in any civil or criminal action in the absence of notice and an opportunity for the patient to be heard.[2]

In enacting Florida Statute Section 395.3025, the Florida Legislature balanced the rights of patients to protect the contents of their medical records against the

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penumbras in the Bill of Rights.

[2]Even if the legislature had not specifically delineated procedures to be followed, the Constitution itself would have required pre-seizure notice and an opportunity to be heard.

interests of law enforcement to obtain evidence needed in a criminal investigation. *State v. Johnson*, 814 So.2d 390, 393 (Fla. 2002). The Legislature recognized that the procedural mechanism required under the statute--a subpoena issued by a court after notice to the affected party and an opportunity to be heard-- provides far greater protection to the patient than a warrant issued in an *ex parte* proceeding, stage managed by investigating agents and prosecutors.[3]

The relationship between a doctor and his or her patient in our society is unique; indeed, the level of trust attendant to that relationship can exceed that between even a husband and a wife. A physician is privy to the most private details of a person's life, details which could be devastating to the patient's personal, social, and professional life if revealed to third parties. During the course of that relationship a patient may seek treatment for a wide range of illnesses, unrelated to any conduct which might be of concern to law enforcement. In seeking treatment for a urinary tract

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[3] Section 395.3025(4)(d), Florida Statutes, reads:

> (4) Patient records are confidential and must not be disclosed without consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:
>
> * * * *
>
> (d) In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice by the party seeking such records to the patient or his or her legal representative.

infection, a patient may reveal details of an extra-marital affair and be tested for HIV and other sexually transmitted diseases. The patient's medical records may reveal treatment for depression and details of suicidal thoughts or attempts not otherwise disclosed from a review of the patient's pharmacy records. Treatment for Hepatitis C may disclose past intravenous drug usage. The patient's medical history may disclose the fact that as a young woman the patient received an abortion or had a child out of wedlock which was later put up for adoption. No one other than the patient and his or her physician should be privy to this information absent consent of the patient.[4]

In upholding the use of a warrant to obtain Mr. Limbaugh's medical records, Judge Winikoff found that "The Court knows of no less intrusive means to obtain the clearly relevant information than the methods the State employed here." (Order, page 4, para. 8). This holding ignores the fact that only a Section 395.3025 hearing provides a procedure to establish whether the state has demonstrated that the patient's medical records are the least intrusive means necessary to uncover evidence of a crime as required by the Florida Constitution and the decisional law; means which, like a scalpel, are crafted to provide the state with what it genuinely needs, without totally

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[4]Florida Statute Section 455.241(2) also, "provides for a broad physician-patient privilege of confidentiality for a patient's medical information and a limited exception to the privilege for disclosure by a defendant physician in a medical negligence action in order for the physician to defend herself." *Acosta v. Richter*, 671 So. 2d 149 (Fla. 1996).

destroying the patient's privacy rights. See Argument Point II.

### 3. An *Ex Parte* Warrant Does Not Offer the Protections Demanded by the Constitutional Right of Privacy and as Set Forth by the Florida Legislature

A warrant issued in an *ex parte* proceeding provides no assurance that matters unrelated to a criminal investigation will not end up in the hands of third parties or otherwise misused by state agents. A search warrant is the most intrusive means of obtaining evidence. It permits law enforcement officers access to all of the patient's records, not just those relevant to the state's investigation. Once the evidence is obtained by law enforcement officers, there is no judicial supervision over how long the information is kept, how the information is secured, or how it is used, discussed, or disclosed to others by those in its possession. A search warrant is a chainsaw in its breadth. When wielded by the state, it does not merely cut through a patient's privacy to obtain the information the state claims it needs, it destroys the patient's constitutionally protected right of privacy as well.[5]

Section 395.3025 provides a mechanism to satisfy the state's interests without also placing in jeopardy the patient's relationships or livelihood. With notice to the

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[5] This Court's decision in *State v. Viatical Services*, 741 So.2d 560 (Fla. 4th DCA 1999) is inapposite. As this Court specifically noted, the patients in *Viatical* waived their right to privacy in their medical records when they sold their insurance policy to the company. No waiver of privacy rights is presented herein.

affected party and an opportunity for the affected party to be heard, a court is in a position to determine what records are genuinely needed by the state and can either order that the physician only disclose those portions of those records which are relevant or can order that the patient's records be turned over to the court for *in camera* review and redaction if necessary. As to those records ordered produced to the state, the court can issue protective orders over how the records are to be maintained and subject any improper disclosure to contempt. Finally, the court can insure that after the investigation is concluded, any records not already made public are returned or destroyed preserving the right of privacy to the fullest extent possible.

Thus while a criminal investigation may constitute a compelling state interest, that interest alone is not sufficient to compel the production of a particular record in the face of an objection. See e.g. *State v. Johnson*, *supra*, (before disclosure of medical records, State must demonstrate compelling need by showing a clear connection between illegal activity and each patient whose privacy has been invaded). As the Fifth District Court of Appeal has held:

> Without the intervention of an impartial magistrate to determine relevancy, the notice of hearing to the patient is meaningless. The court is relegated to being a rubber stamp for the state. The court must act as a shield to protect the patient's right to privacy by determining whether medical records are relevant to a pending criminal investigation. This role of the court is extremely important because personal and potentially embarrassing information

> contained in the medical records may be disclosed. This invasion of a patient's privacy can only occur after the court finds a compelling state interest and that the information is relevant. Florida's constitution has a very strict prohibition against government intrusion into the private lives of its citizens and, by implication, their medical records.

*Hunter v. State*, 639 So. 2d 72, 74 (Fla. 5th DCA 1994); *See also State v. Cashner*, 819 So.2d 227, 229 (Fla. 4th DCA 2002) (where patient objects to the issuance of investigatory subpoena for medical records, the "state has the burden and obligation of demonstrating the relevancy of the records requested" at an "evidentiary hearing" before the subpoena may issue); *State v. Rutherford*, 707 So.2d 1129, 1131 (Fla. 4th DCA 1997)(en banc)(where there is an objection to disclosure of medical records, "state has the obligation and burden to demonstrate relevancy, via evidence," before a subpoena may issue).

**4. The Statutory Scheme Governing Production of Medical Records Protects Against Misuse of the Information by State Agents**

Section 395.3025 also serves to protect the balance of power between the individual and the state. As discussed above, once the state has obtained a patient's complete medical records through the use of a search warrant, there is no judicial supervision over how that evidence is used. Even where there is probable cause to believe that evidence of a crime is contained in some portion of those records, it may

well be the other information found in those records which provides the state the ammunition it needs to coerce an individual into capitulating to law enforcement.

Such an abuse of state powers is not merely hypothetical; it is vividly illustrated in this very case. The state does not dispute that during the course of its investigation of Mr. Limbaugh, high ranking officials in the State Attorney's Office (TR. 42-44) leaked details of its investigation to ABC News, (TR. 37), USA Today (TR. 37-38) and the National Enquirer. (TR. 38). Moreover, upon the execution of the search warrants, the affidavits supporting the warrants were filed in the clerk's office, revealing the evidence it had uncovered concerning Mr. Limbaugh (TR. 35-36). Disclosing such evidence in advance of filing charges is virtually unknown in criminal practice.

Contrary to the argument advanced by the state that such conduct is irrelevant (TR. 39), the state's willingness to try its case in the media demonstrates why the safeguards found in Section 395.3025 are so important and why the state cannot be trusted to protect the privacy rights of those it also seeks to prosecute when it seizes evidence *ex parte*.

In *Klossett v. State,* 763 So. 2d 1159, 1160 (Fla. 4th DCA 2000), this Court ordered suppression of evidence obtained in violation of the notice provisions of

Section 395.3025. Suppression was ordered even though the error was not intentional but rather the result of negligence. *Id.* at 1161. By contrast, the violation of the statute herein was knowing and intentional. Similarly in *State v. Johnson,* 814 So. 2d 390, 395 (Fla. 2002) the Florida Supreme Court held that state attorney's subpoena power under Section 27.04 cannot be used to override the notice requirement of Section 395.3025. Thus courts that have considered even lesser violations of Section 395.3025 have found suppression of evidence necessary. The trial court's finding, herein, that the prosecutors acted in good faith is neither plausible nor relevant. Nor is it even a permissible issue for judicial scrutiny since the state must be compelled to comply with the law in all instances.

In the instant case, the trial court found that any violation of the statue was harmless, since the records were sealed and the affected party notified and afforded an opportunity to object. But as we have seen, since the entirety of Mr. Limbaugh's medical records were seized by state law enforcement agents, they were already exposed to Mr. Limbaugh's entire medical history by virtue of the search process itself. Even if in this particular case, as a result of the notoriety of the subject, the investigators kept their eyes closed and shoved the records in an envelope before anyone could take a peak at them, there is no procedure mandating such protection in the run of the mill case. The average citizen in Florida is simply not going to know of

the state's investigation until and unless charges are filed, or if the information is somehow released to other third parties and the citizen suffers some tangible injury such as the loss of a job or eligibility for health or life insurance. The average citizen is not going to be afforded an opportunity to ask a court to limit the scope of the state's intrusion into his medical records. The average citizen is not going to get a court to exercise any supervision over the state's use of his medical records. Thus even if Mr. Limbaugh suffered no harm as a result of the state's action herein, the average citizen will never know whether he or she was so fortunate.

### 5. The Court Erred in Confusing the Standard of Proof Required for Issuance of a Search Warrant and the Showing of Relevancy Required for Issuance of a Subpoena for Medical Records

In upholding the use of a warrant to obtain Mr. Limbaugh's medical records, Judge Winikoff confused the inquiry required for the issuance of a warrant and that required for the issuance of a subpoena for a patient's medical records. (See Order, page 3, para. 6). The fact that the standard of proof required for a warrant, probable cause, is greater than that required for a subpoena, does not mean that a warrant offers a greater or even an equivalent level of protection. This is because the issues involved in issuing a search warrant are simply not the same as those involved under Section 395.3025. In the case of a warrant, a court must be satisfied that there is sufficient cause to believe evidence of a crime will be found at a certain location; in the case of

a subpoena for medical records, the court must determine what part, if any, of the contents of medical records is the state entitled to. No matter how much evidence the state has that a suspect has committed a crime and that some evidence of that crime is contained in his medical records, that does not relieve the court of its responsibility to afford the affected party an opportunity to be heard as to the scope of the material to be disclosed. For example, in a case where the state can establish probable cause to believe that a suspect's medical records contain evidence that the suspect was engaged in insurance fraud, say through staging automobile accidents, no level of cause, be it probable cause or proof beyond a reasonable doubt, should permit the state access to records that reveal that the suspect carries a rare gene for a deadly inherited disease.

**6. The Court Erred in Holding that a Warrant was an Alternative to a Subpoena for Obtaining Medical Records Which Did Not Require Pre-Seizure Notice and an Opportunity to Be Heard**

Having failed to recognize the significant differences between obtaining patient records through a warrant and obtaining those same records through a subpoena issued after notice and hearing, Judge Winikoff held that there was no authority that would require a court "to apply the procedures set out in Section 395.3025, Fla. Stat. (2003) to search warrants." (Order, page 4, para. 7). Underlying the Court's opinion, is the

view that a search warrant co-exists with Section 395.3025 as an alternative means of obtaining a patient's medical records. The flaw in the Court's analysis is demonstrated by a cursory review of the language of Section 395.3025. The statute requires notice and an opportunity to be heard "in any civil or criminal action." Had the legislature not sought to restrict the state's ability to obtain medical records in criminal investigations, the legislature would not have included criminal actions within the purview of the statute. Plainly, where a patient's medical records are being sought, the law requires the state to use the procedures found in Section 395.3025. There is simply no authority that allows the state to ignore the law in favor of more intrusive means. Nor is there authority for a circuit court to carve out an exception where the legislature did not create one.

The ruling below compounds its error by ignoring fundamental canons of statutory construction. "It is a well-known principle of statutory construction that 'a specific statute covering a particular subject area controls over a statute covering the same and other subjects in more general terms."' *Engineering Contractors Ass'n of South Florida, Inc. v. Broward County*, 789 So. 2d 445, 451 (Fla. 4th DCA 2001). For that reason, the Legislature's specific direction to obtain medical records only after notice and hearing supersedes and displaces its more general grant of authority to obtain evidence through ex parte warrants;"a specific statute covering a particular

subject area always controls over a statute covering the same and other subjects in more general terms." *McKendry v. State*, 641 So. 2d 45, 46 (Fla. 1994).

The trial court ruling also "runs counter to the frequently-cited rule of statutory construction which recognizes that a later statute dealing with a specific subject takes precedence over an earlier statute covering the same subject in general terms." *Anstead v. Cox Broadcasting Compay*, 500 So. 2d 197, 201 (Fla. 1st DCA 1986); *see also Tribune Co. v. School Board of Hillsborough County*, 367 So. 2d 627 (Fla.1979); *Brescher v. Associates Financial Services Co., Inc.*, 460 So. 2d 464 (Fla. 4th DCA 1984); *Strahl v. Strahl*, 431 So. 2d 729 (Fla. 3d DCA 1983); *Marston v. Gainesville Sun Publishing Co., Inc.*, 341 So. 2d 783 (Fla. 1st DCA 1976). Section 395.3025 is both more specific and more recent than the statutory authorization for the issuance of search warrants. Accordingly, the court should construe it as written, holding that the legislature meant what it said when it required the state to proceed through subpoena after notice and a hearing in order to obtain patient medical records.

**7. The Use of a Warrant to Obtain Medical Records Could Have a Profound and Negative Effect Upon the Relationship Between Doctors and Patients in the State of Florida**

Permitting the state to proceed by way of a search warrant could have a significant chilling effect upon the relationship between doctor and patient and interfere with the doctor's ability to accurately diagnose and treat illnesses. Knowing

that any information disclosed could find itself in hands of an investigator or prosecutor, a patient may hesitate to provide complete or accurate answers to his or her physician's questions. This could seriously erode the doctor-patient relationship and interfere with the quality of medicine practiced in this state.

## POINT II

### SECTION 395.3025 AND THE FLORIDA CONSTITUTION REQUIRE THAT A TRIAL COURT DETERMINE WHETHER THE DISCLOSURE OF A PATIENT'S MEDICAL RECORDS ARE THE LEAST INTRUSIVE MEANS AVAILABLE FOR THE STATE TO OBTAIN EVIDENCE NEEDED FOR ITS INVESTIGATION

As discussed in Point I, a Section 395.3025 hearing is the sole statutorily recognized procedure to obtain a patient's medical records for use in a criminal investigation of the patient. Before such a proceeding, the patient must be given notice and afforded an opportunity to be heard in response to the state. The state has the burden of establishing (1) that the state has a compelling interest in obtaining the records, (2) that the records sought are relevant to the state's investigation, and (3) that obtaining the records by subpoena is the least intrusive means of obtaining evidence needed for the state's investigation.

As noted in Point I, under the case law, a legitimate criminal investigation is by

definition a compelling state interest. *Johnson*, *supra at* 393.[6] In the instant case the ACLU does not take any position on the legitimacy of the criminal investigation herein. However, as demonstrated above, a Section 395.3025 proceeding is the only mechanism recognized by law for a court to determine whether the records sought are relevant to that investigation. In this case, the record reflects that the trial court has never seen the records and has thus had no occasion to determine whether there is

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[6] *Johnson's* pronouncement on this point ("the control and prosecution of criminal activity is a compelling state interest") should not be read too broadly. Although not raised below, a literal reading of *Johnson* raises serious questions about the right of privacy and the power of the state to create exceptions to that right based upon a lesser standard than compelling state interest. The power of the state to criminalize conduct knows few bounds. Except for conduct that is affirmatively protected by the constitution, all the state needs to make conduct criminal under its police power is a rational basis. Thus, legislation that passes the rational basis test becomes the compelling state interest that overrides the right of privacy.

Can it be that the state can obtain medical records despite the right of privacy because it claims those records are relevant to a criminal investigation that need only pass the rational basis test? Does that bear on the analysis a trial court should conduct in the subpoena hearing? Does it matter whether the records sought are limited to the result of, say, a blood alcohol test or, instead, as in this case, statements made by the patient in confidence to his physician?

*Johnson* did not need to address these kinds of questions because the underlying criminal activity - manslaughter - presented a clear case of harm to society satisfying a compelling state interest standard. Whether *Johnson's* pronouncement applies equally to all crimes may be a topic to be considered as a matter of first impression in the trial court upon remand. The ultimate prosecution of Rush Limbaugh for the legislatively created crime of "doctor shopping" to support his self-admitted addiction to prescription pain medication may raise this very issue.

material contained in the patient's records which would not be relevant to the state's investigation. Moreover, under the case law, the state is required to demonstrate that even as to those records deemed relevant, that obtaining those records from the doctor is the least intrusive means available to obtain the information it needs. *Winfield, supra at* 547. Should this Court agree that the state must be ordered to return Mr. Limbaugh's medical records to his physicians, at any further proceedings pursuant to Section 395.3025, the state must be required to shoulder its burden of demonstrating first that the records sought are relevant[7] and second that it has no other means short of obtaining the patient's records from the physician to uncover the evidence it needs for its investigation.[8]

## CONCLUSION

Whether the State ultimately prevails in its efforts to obtain Rush Limbaugh's

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[7] Since Judge Winikoff never examined Mr. Limbaugh's medical records, he failed to appreciate the difference between the probity of medical records in theory and the relevance of Mr. Limbaugh's actual records in the files of his physicians. (TR. 49).

[8] Judge Winikoff also erred in placing the burden upon the attorneys for Mr. Limbaugh to show the existence of least intrusive means rather than upon the state to show that it had exhaustive all other reasonable means (TR. 49). Plainly, under the case law it is the State which must shoulder this burden. *Winfield, supra*, at 547. Moreover, only the state is in the position to articulate what means might be available since the defense will rarely know enough about the state's investigation.

medical records is of no of concern to the ACLU. Rather, we seek to vindicate every Floridian's right to privacy by ensuring that the State is required to comply with carefully crafted procedural protections required by the Constitution and delineated by the Legislature. In permitting the state to obtain medical records by warrant, the court acted beyond its authority, effectively re-writing the law. The legislature has already balanced the competing interests and created a statutory scheme that preserved a patient's right to privacy without sacrificing the state's interests in investigating alleged wrongdoing. Fundamentally, the circuit court erred when it sought to substitute its judgment for that of the Florida Legislature.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I CERTIFY that a true copy of the foregoing was mailed to James L. Martz, Assistant State Attorney, 401 North Dixie Highway, West Palm Beach, FL 33401, and Roy Black, 201 South Biscayne Boulevard, Suite 1300, Miami, FL 33131, this 17th day of February, 2004.

## CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing brief was prepared using Times New Roman style at 14 points.

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Jon May, Esq