

# Supreme Court of Florida

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No. SC95641

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**STATE OF FLORIDA,**  
Petitioner,

vs.

**JOHN WAYNE SPELL,**  
Respondent.

[January 4, 2001]

PER CURIAM.

We initially accepted review of Spell v. State, 731 So. 2d 9 (Fla. 2d DCA 1999), based on express and direct conflict with Fitzhugh v. State, 698 So. 2d 571 (Fla. 1st DCA 1997). Upon further consideration, we find that jurisdiction was improvidently granted in this case. Accordingly, we hereby dismiss review of this cause.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, PARIENTE and LEWIS, JJ.,  
concur.

QUINCE, J., recused.

NO MOTION FOR REHEARING WILL BE ALLOWED.

Application for Review of the Decision of the District Court of Appeal -  
Direct Conflict

Second District - Case No. 2D97-00572

(Collier County)

Robert A. Butterworth, Attorney General, Robert J. Krauss, Chief of Criminal Law,  
Tampa Branch, and Ann Pfeiffer Howe, Assistant Attorney General, Tampa, Florida,

for Petitioner

James Marion Moorman, Public Defender, and Patricia A. Paterson, Assistant Public  
Defender, Tenth Judicial Circuit, Bartow, Florida,

for Respondent