

# Supreme Court of Florida

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No. SC07-1003

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**THOMAS ELWELL,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[April 3, 2008]

PER CURIAM.

We originally accepted jurisdiction to review the decision of the Second District Court of Appeal decision in Elwell v. State, 954 So. 2d 104 (Fla. 2d DCA 2007), based on express and direct conflict with Heuss v. State, 660 So. 2d 1052 (Fla. 4th DCA 1995), approved, 687 So. 2d 823 (Fla. 1996), and In re R.L.R., 647 So. 2d 251 (Fla. 1st DCA 1994). See art. V, § 3(b)(3), Fla. Const. After further consideration, we have determined that jurisdiction was improvidently granted. Accordingly, we hereby discharge jurisdiction, and the instant case is dismissed.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

NO MOTION FOR REHEARING WILL BE ALLOWED.

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

Second District - Case No. 2D05-907

(Pasco County)

Robert A. Morris and James Cameron Banks of the Law Office Banks and Morris,  
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for Petitioner

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Chief, and Diana K. Bock, Assistant Attorneys General, Tampa, Florida,

for Respondent