

# Supreme Court of Florida

No. 66,730

STATE OF FLORIDA, Petitioner,

v.

SANDY SAFFORD, Respondent.

[March 20, 1986]

McDONALD, J.

The issue in this case is whether our decision in State v. Neil, 457 So.2d 481 (Fla. 1984), is to be applied to cases where the jury was selected prior to Neil, but the cases were not finalized. These have been generally referred to as "pipeline" cases. We find that any person whose case was in the original trial or appellate process and who has followed the procedure specified in Neil to contest the racially discriminatory use of peremptory challenges is entitled to have Neil applied to that person's case. Our comment that Neil was not to be applied retroactively was intended to forestall the use of Florida Rule of Criminal Procedure 3.850 in collateral attacks on final judgments. Neil is not to be applied to those cases where the original trial and appellate processes were completed when Neil became effective; Neil does apply to those cases where the original trial or original appeal had not been so completed.

The opinion of the district court in Safford v. State, 463 So.2d 378 (Fla. 3d DCA 1985), is approved.

It is so ordered.

BOYD, C.J., and ADKINS, OVERTON, EHRLICH, SHAW and BARKETT, JJ.,  
Concur  
NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF  
FILED, DETERMINED.

Application for Review of the Decision of the District Court  
of Appeal - Constitutional Construction

Third District - Case No. 82-2194

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