

Supreme Court of Florida

ORIGINAL

No. 77,692

DORIS ELIZABETH BROOKS, etc., et al.,
Petitioners,

v.

MASOUD MAZAHERITEHRANI,
Respondent.

[February 27, 1992]

McDONALD, J.

We tentatively accepted jurisdiction in Mazaheritehrani v. Brooks, 573 So.2d 925 (Fla. 4th DCA 1990), because of perceived conflict with State v. Neil, 457 So.2d 481 (Fla. 1984). A closer analysis fails to reveal actual conflict between these cases. In the interim period, however, we accepted jurisdiction in Jefferson v. State, 584 So.2d 123, 125 (Fla. 4th DCA 1991), wherein the following question was certified:

WHERE THE TRIAL COURT FINDS THAT A PEREMPTORY
CHALLENGE IS BASED UPON RACIAL BIAS, IS THE SOLE

REMEDY TO DISMISS THE JURY POOL AND TO START
VOIR DIRE OVER WITH A NEW JURY POOL, OR MAY THE
TRIAL COURT EXERCISE ITS DISCRETION TO DENY THE
PEREMPTORY CHALLENGE IF IT CURES THE
DISCRIMINATORY TAINT?

Our opinion in Jefferson v. State, No. 78,507 (Fla. Feb. 27,
1992), directly conflicts with the holding of the district court
in this case and clearly we now have jurisdiction. Art. V,
§ 3(b)(3), Fla. Const.

Accordingly, the decision under review is quashed and this
cause is remanded for further consideration in light of
Jefferson.

It is so ordered.

SHAW, C.J. and OVERTON, BARKETT, GRIMES, KOGAN and HARDING, 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 - Direct Conflict of Decisions

Fourth District - Case No. 89-2470

(St. Lucie County)

Moses Baker, Jr. of Searcy, Denney, Scarola, Barnhart & Shipley,
P.A., West Palm Beach, Florida; and Philip M. Burlington of Edna
L. Caruso, P.A., West Palm Beach, Florida,

for Petitioner

Vernis & Bowling, P.A., Jupiter, Florida; and Richard H.W. Maloy,
Key Biscayne, Florida,

for Respondent

Robert A. Butterworth, Attorney General and Charles M. Fahlbusch,
Assistant Attorney General, Miami, Florida,

Amicus Curiae, for the State of Florida

Barbara Green of Freidin, Hirsh, Green & Gerrard, P.A., Miami,
Florida; and Roy D. Wasson, Miami, Florida,

Amicus Curiae, for the Academy of Florida Trial Lawyers