

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-4109

MICHAEL RENARD JACKSON,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Petition for Writ of Prohibition—Original Jurisdiction.

October 16, 2018

PER CURIAM.

Petitioner asserts that the State violated section 782.04, Fla. Stat. (2016) (pertaining to the State's responsibilities after arraignment if the State intends to seek the death penalty). We find the statute is not applicable in this case and deny the petition on the merits.

Petitioner was indicted by a grand jury for first-degree premeditated murder and sexual battery on March 9, 2007. The State noticed its intent to seek the death penalty on March 14, 2007. In response to the trial court's order of January 25, 2010, granting Petitioner's Motion for Statement of Aggravating Circumstances, the State filed its Notice of Intent to Rely on Aggravating Circumstances on April 28, 2010.

Petitioner was convicted as charged on February 22, 2010, and sentenced to death on July 16, 2010. His appeal to the Florida Supreme Court resulted in a reversal and a granting of a new trial. *Jackson v. State*, 107 So. 3d 328 (Fla. 2012). However, the reversal of Jackson's conviction and ordering of a new trial did not require a *new arraignment*. And the 2016 amendment to section 782.04(1), Fla. Stat., requiring that the State provide notice of aggravating factors within *45 days of arraignment* (in addition to its notice of intent to seek the death penalty) does not apply retroactively to an arraignment that occurred in 2007. Petitioner has been on notice of the State's intent to seek the death penalty since 2007, and received notice of the aggravating circumstances in 2010.

DENIED.

WOLF, ROWE, and BILBREY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Gonzalo Andux of Finnell, McGuinness, Nezami & Andux, P.A., Jacksonville, for Petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, for Respondent.