

Stormwater Runoff/Residential Development: Arkansas Court of Appeals Addresses Jurisdictional Issue



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The Court of Appeals of Arkansas ("Court") addressed in a May 14th Opinion a jurisdictional dispute involving alleged residential development stormwater runoff issues. *See Centofante, et al. v. Ferguson*, 2025 WL 1386368.

The issue addressed was whether the Pulaski County Court had exclusive jurisdiction upon finding that the Complaint was related exclusively to county matters.

Before the Court was a Motion to Dismiss the Complaint for lack of subject-matter jurisdiction filed by Pulaski County. The Motion was later adopted by the defendant, Rick Ferguson, founder, organizer and managing member of the defendant limited liability companies ("Ferguson Appellees").

The Pulaski County Planning Department in 2021 issued a preliminary plat to the Ferguson Appellees for the development of a single-family subdivision. Part of the plat touches upon a county road.

The following year, individual landowners in the Pinnacle Mountain area of western Pulaski County, Arkansas, and the Pinnacle Mountain Community Coalition, a not-for-profit organization (collectively, the "Coalition"), filed a Complaint against the Ferguson Appellees. The Coalition argued that the subdivision's development diverted stormwater to flow onto private property causing flooding. Specifically, the Complaint alleged public nuisance, private nuisance, the illegal diversion of surface water contrary to Arkansas law, and negligence in causing the diversion of surface water.

The Circuit Court granted a motion to dismiss the Coalition's Complaint for lack of subject-matter jurisdiction. It held that when a matter concerns a county road, Article VII, § 28 of the Arkansas Constitution controls. If so, this matter must be heard in County Court.

Article VII, § 28 of the Arkansas Constitution provides in relevant part:

...The County Courts shall have exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, bastardy, vagrants, the apprenticeship of minors, the disbursement of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

Amendment 80 of the Arkansas Constitution provides the Circuit Courts are trial courts of original jurisdiction "of all justiciable matters not otherwise assigned pursuant to this Constitution." Ark. Const. amend. 80 § 6.

The Court on Appeal construed “relating to” as matters that “obviously flow from” a county-related matter.

The Court held that the flooding caused by the development is not an issue that obviously flows from a county-related matter. This was due to the fact that, as the Coalition’s claims are based on damages to the Coalition members’ private property, which will also affect travel on the county road. Further, the Coalition sought an injunction, a remedy that falls outside the domain of the County Court. In other words, the Coalition’s Complaint dealt with flooding damage to private, not public, property, and sought a remedy fully within the competence of Circuit Courts.

The Court therefore reversed the Circuit Court’s decision to grant the Ferguson Appellee’s Motion to dismiss and held that a Circuit Court does have jurisdiction to hear non-county related matters.

A copy of the Opinion can be downloaded [here](#).