

Stormwater Runoff/Residential Development: Arkansas Supreme Court Addresses Jurisdictional Issue



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The Arkansas Supreme Court ("SCT") addressed in a November 13th Opinion a jurisdictional dispute involving a residential development stormwater runoff issue. *See Taylor v. Ferguson, et al.*, 2025 Ark. 180.

The issue addressed was whether the Pulaski County Court had exclusive jurisdiction upon finding that the complaint was related 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 (collectively, "Ferguson").

The Pulaski County Planning Department in 2021 issued a preliminary plat to Ferguson for the development of a single-family subdivision. Part of the plat touched 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 (collectively, "Coalition") filed a complaint against Ferguson. 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, illegal diversion of surface water contrary to Arkansas law, and negligence in 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 court shall have exclusive original jurisdiction in all matters relating to county taxes, road, 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 SCT stated that Article 7, § 28 does not require that the Coalition file a complaint in county court. It states that the case does not involve any of the matters that Article 7, § 28 assigns to the exclusive

jurisdiction of the county court. It rejects Ferguson's argument that because county roads are involved that jurisdiction is involved, holding:

... But our constitution's language does not sweep nearly so far, sending every claim that tangentially involves street paving or properties separated by a road to county court.

Further, it rejects the argument that an "internal improvement" is involved, referencing that this typically has encompassed construction of a bridge across the Platte River, construction of a county hospital, etc.

"Local concerns" is also deemed not applicable because this is stated to refer to things within the county's control (i.e., things which relate specifically to county affairs).

The SCT concludes that nothing in the record suggests that the case falls within the exclusive jurisdiction of the county courts, as it does not involve county roads, internal improvements, or local concerns as those terms are used in the Constitution.

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