

No. CV-26-116

In the Arkansas Supreme Court

BRYAN NORRIS, et al.,
Plaintiffs-Appellants,

v.

INDEPENDENCE COUNTY, et al.,
Defendants-Appellees,

STATE OF ARKANSAS, ex rel. TIM GRIFFIN,
in his official capacity as Attorney General of Arkansas,
Intervenor-Appellee.

On Appeal from the Circuit Court
of Independence County, Arkansas

The Honorable Tim Weaver
Circuit Judge

Intervenor-Appellee Brief

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POINT ON APPEAL

1. Act 975 of 2025 assigns the Court of Appeals exclusive original jurisdiction over facial constitutional challenges raised in a party's initial or amended pleading. Amendment 80, § 10 allows the General Assembly "to establish jurisdiction of all courts ..., unless otherwise provided in th[e] Constitution." Is Act 975 constitutional?

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JURISDICTIONAL STATEMENT

This appeal is from an appealable order. Bryan Norris; Arkansas Voter Integrity Initiative, Inc.; and Restore Election Integrity Arkansas (collectively, “Norris”) appealed from the circuit court’s order dismissing the complaint for lack of subject-matter jurisdiction under Act 975 of 2025. (RP 152-156). That order granting the motions to dismiss is an appealable order. *See Griffin v. Ark. Bd. of Corrs.*, 2025 Ark. 81, at 5, 711 S.W.3d 784, 788; *see also* Ark. R. App. P. – Civ. 2(a)(1)–(2).

The appeal was timely. On February 18, 2026, the circuit court dismissed the case. (RP 156). The next day, Norris filed his notice of appeal. (RP 157-158). The record was timely lodged on February 23, 2026, within 90 days of the notice of appeal’s filing. *See* Ark. R. App. P. – Civ. 5(a).

The Arkansas Supreme Court should decide this appeal. This appeal involves the interpretation of the Arkansas Constitution. Ark. S. Ct. R. 1-2(b)(1). Moreover, it involves issues of first impression, substantial public interest, and the construction and interpretation of statutes. Ark. S. Ct. R. 1-2(c)(1), (4), (6). It is thus an appropriate appeal for this Court to decide.

STATEMENT OF THE CASE AND THE FACTS

On February 6, 2026, Norris sued Independence County and county officials (collectively, the “County”), alleging that a state statute and the County’s actions related to a local election law were facially unconstitutional. (RP 10-19). The County then moved to dismiss because the circuit court lacked jurisdiction under Act 975 of 2025. (RP 35, 48-49, 67-69).

Under Act 975, the Court of Appeals has “exclusive original jurisdiction over a facial constitutional challenge” to an Arkansas law raised “in the party’s initial or amended pleading.” Act 975 of 2025, §§ 2, 5. That jurisdictional assignment is codified, Ark. Code Ann. § 16-13-201(a)(2), and effected through court rules, Ark. S. Ct. R. 1-2(a).

The Legislature enacted Act 975 under two explicit grants of constitutional authority. Amendment 80, § 10 grants the Legislature “power to establish jurisdiction of all courts ..., unless otherwise provided in th[e] Constitution.” Ark. Const. amend. 80, § 10; *see* Act 975 of 2025, § 1. And Amendment 80, § 9 allows the Legislature, by a two-thirds vote of each house, to “annul[] or amend[], in whole or in part” a rule of this Court “promulgated ... pursuant to Sections 5, 6(B), 7(B), 7(D), or 8” of Amendment 80. Ark. Const. amend. 80, § 9; *see* Act 975 of 2025, § 1.

On February 17, Norris responded to Defendants' motions to dismiss and notified the Attorney General of constitutional challenges. (RP 89-102); *see* Ark. Code Ann. § 16-111-111. Below, Norris argued that Act 975 violates the separation-of-powers principle in Article 4, §§ 1-2 of the Arkansas Constitution, (RP 96-97); and the jurisdictional grant to the circuit court in Amendment 80, § 6 to the Arkansas Constitution, (RP 97-99).

The next day, the circuit court dismissed Norris's complaint for lack of subject-matter jurisdiction under Act 975. (RP 152-156). Norris appealed. (RP 157-158).

ARGUMENT

Because the circuit court’s dismissal under Act 975 involves a question of law, the Court’s review is de novo. *Kimbrell v. Thurston*, 2020 Ark. 392, at 6, 611 S.W.3d 186, 190. And because statutes are presumed to be constitutional, it is Norris’s burden to show that Act 975’s jurisdictional assignment is “clearly” unconstitutional. *Cent. Okla. Pipeline, Inc. v. Hawk Field Servs., LLC*, 2012 Ark. 157, at 9–10, 400 S.W.3d 701, 707–08.

Norris argues that Act 975 is unconstitutional under four provisions of the Arkansas Constitution: Amendment 80, § 6, Appellants’ Br. 7 (“Br.”); Amendment 80, § 5, *id.*; Amendment 80, § 4, *id.* at 8–9; and Article 4, §§ 1 and 2, *id.* at 9. Norris’s arguments are unpersuasive. Act 975 is constitutional.

I. ACT 975 CONSTITUTIONALLY ASSIGNS THE COURT OF APPEALS EXCLUSIVE JURISDICTION OVER FACIAL CONSTITUTIONAL CHALLENGES.

Under Amendment 80, § 10, the Legislature has “power to establish jurisdiction of *all* courts ..., unless otherwise provided in th[e] Constitution.” Ark. Const. amend. 80, § 10 (emphasis added); *see All, Random House Webster’s Unabridged Dictionary* 54 (2d ed. 2001) (“every”). Combined with its “absolute power and authority to legislate in all fields,” absent a constitutional restriction, *Pulaski Cnty. Muni. Ct. v. Scott*, 272 Ark. 115, 117–18, 612 S.W.2d 297, 298 (1981)

(citation omitted), § 10 gives the Legislature “authority to establish jurisdiction” of every court, unless some “other constitutional provision[]” specifically limits that authority. *Daniels v. Dennis*, 365 Ark. 338, 340, 229 S.W.3d 880, 882 (2006).

The Legislature’s sweeping textual authority over jurisdictional assignments is confirmed by the constitutional history. Under the 1868 Constitution, the Legislature could “change[]” the inferior courts’ “jurisdiction,” Ark. Const. of 1868, art. VII, § 5, and “alter and regulate the jurisdiction ... in law and equity,” *id.*, art. V., § 44. As this Court explained, the “jurisdiction” of inferior courts was “subject to legislative control.” *Maxey v. Mack*, 30 Ark. 472, 481 (1875).

The 1874 Constitution was “largely ... a reaction to” the 1868 Constitution. John J. Watkins, *The Right to Trial by Jury in Arkansas after Merger of Law & Equity*, 24 Univ. of Ark. at Little Rock L. Rev. 649, 662 (2002); see Diane D. Blair, *Arkansas Politics & Government: Do the People Rule?* 121 (1988) (explaining that the 1874 Constitution “was in opposition to many of [the 1868 Constitution’s] provisions”). Thus, the 1874 Constitution’s original language took a distinctly different approach than the 1868 Constitution, vesting circuit courts with “exclusive jurisdiction” over “all civil and criminal cases,” “not [to] be vested in some other court.” Ark. Const. of 1874, art. VII, § 11 (emphases added). But even then, the courts of chancery

remained subject to legislative control. *See id.* art. VII, § 15. Things changed with Amendment 80.

After the 2000 election, Amendment 80 merged the courts of law and equity into the circuit courts, *see* Ark. Const. amend. 80, § 19(B)(1), and repealed the circuit court’s original 1874 jurisdictional language, *id.* § 22(A). In doing so, Amendment 80 restored much of the legislative authority over jurisdictional assignments. For one, it removed the circuit court’s “exclusive” original jurisdiction. *Compare* Ark. Const. of 1874, art. VII, § 11, *with* Ark. Const. amend. 80, § 22(A) (repealing Article VII, § 11), *and id.* § 6 (not providing circuit courts with “exclusive” original jurisdiction). For another, it removed the prohibition on the Legislature “vest[ing] in some other court” original jurisdiction over matters. *Compare* Ark. Const. of 1874, art. VII, § 11, *with* Ark. Const. amend. 80, § 22(A) (repealing Article VII, § 11), *and id.* § 10 (expressly allowing the Legislature to assign jurisdiction). And if Amendment 80’s repeal of the 1874 Constitution’s original limitations on jurisdictional assignments wasn’t enough, the drafters harked back to the 1868 Constitution, empowering the Legislature to “establish jurisdiction of all courts ..., unless otherwise provided in this Constitution.” Ark. Const. amend. 80, § 10. As this Court has explained, § 10 is “a positive grant of power” to the Legislature to

establish jurisdiction, and that authority “controls” if there is “a[] conflict” with earlier provisions. *Perry v. Payne*, 2022 Ark. 112, at 3.

Despite the constitutional text and history, Norris points to four provisions that he asserts specifically prohibit the Legislature from assigning exclusive original jurisdiction of facial constitutional challenges to the Court of Appeals. Each one fails.

A. Instead of limiting the Legislature’s authority, Amendment 80, § 6 recognizes it.

Norris starts with Amendment 80, § 6. *See* Br. 7. It is true that under § 6 circuit courts are usually “the trial courts of original jurisdiction,” but that is not so for matters “otherwise assigned pursuant to th[e] Constitution.” Ark. Const. amend. 80, § 6. Norris declares that § 6 “means that the constitution has spoken on original jurisdiction of matters as belonging to the circuit courts, not the court of appeals.” Br. 7. Norris, however, does not explain how § 6 specifically limits the Legislature’s § 10 authority to assign jurisdiction. *See supra* pp. 10–11. Indeed, he fails to address the most relevant language in § 6—that “original jurisdiction” may be “assigned” to other courts if the assignment is made “pursuant to th[e] Constitution.” Ark. Const. amend. 80, § 6. The “assignment exception” is fatal to Norris’s argument.

A jurisdictional assignment is “pursuant to” the Constitution if it is performed “in a manner conformable” with or “according” to the Constitution.

Pursuant, Random House Webster’s Unabridged Dictionary 1570 (2d ed. 2001). When the Legislature enacted Act 975, it expressly acted according to its § 10 authority to assign jurisdiction. *See* Act 975 of 2025, § 1. As explained, Act 975 was a proper application of that authority. Nothing in § 6 prohibits the exercise of that authority; indeed, the “assignment exception” implicitly recognizes it.

Norris’s interpretation of § 6 cannot be squared with Amendment 80’s text or Arkansas’s constitutional history, which shows that Amendment 80—rather than giving circuit courts exclusive, unalterable original jurisdiction—was designed to restore the Legislature’s authority to assign jurisdiction, unless specifically prohibited.

B. Amendment 80, § 5 provides a starting point for the Court of Appeals’ jurisdiction, not an ending point.

Next, Norris quotes Amendment 80, § 5. Br. 7. Under § 5, the Court of Appeals has “appellate jurisdiction as the Supreme Court shall by rule determine.” Ark. Const. amend. 80, § 5. Although unexplored, Norris appears to argue that, because § 5 mentions appellate jurisdiction determined by rule, the Court of Appeals can have no other type of jurisdiction. *See* Br. 7. His argument fails for two reasons.

First, Norris did not make any argument about § 5 below. *See* (RP 97-99). And when a party does “not raise[]” “an argument ... below ..., the issue is not preserved for appellate review.” *Worsham v. Bassett*, 2016 Ark. 146, at 5, 489 S.W.3d 162, 165.

That's true for all unraised argument, "even constitutional ones." *Lucas v. Jones*, 2012 Ark. 365, at 9, 423 S.W.3d 580, 585. Accordingly, the Court need not consider this argument.

Second, even if Norris didn't have a preservation problem, his argument fails. That is because § 5 is silent on the scope of the Court of Appeals' jurisdiction beyond rule-determined appellate jurisdiction. Thus, there is nothing "provided in" § 5 that specifically limits the Legislature from assigning jurisdiction to the Court of Appeals. Ark. Const. amend. 80, § 10; *see supra* pp. 10–13. To be sure, even that rule-determined appellate jurisdiction is subject to the Legislature's alterations. *See* Ark. Const. amend. 80, § 9.

Perhaps Norris is alluding to the negative-implication canon, under which "the express designation of one thing may properly be construed to mean the exclusion of another." *Buonautio v. Gibson*, 2020 Ark. 352, at 8, 690 S.W.3d 381, 386 (2020). But that canon "depends so much on context" that "it must be applied with great caution." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 107 (2012). Considering Amendment 80's context, *see id.* 167–69 (whole-text canon), the Legislature was given broad power to assign jurisdiction unless specifically prohibited from doing so, *see supra* pp. 10–13. Even before § 10's explicit grant of authority, this Court appeared to find it so unremarkable that the

Legislature could alter the Court of Appeals' jurisdiction absent a Supreme Court rule that it did not even spill ink on the supposed constitutional issue. *See Houston Contracting Co. v. Young*, 271 Ark. 455, 457, 609 S.W.2d 895, 896 (1980) (discussing Workers' Compensation Commission appeals as "jurisdiction conferred ... by Acts" and comparing that to "jurisdiction ... assigned ... by this [C]ourt"); S.J. Res., 1977 Gen. Assemb. (Ark. 1977), Proposed Amend. 58, at 2432 (providing, like Amendment 80, § 5, that the Court of Appeals has "such appellate jurisdiction as the Supreme Court shall by rule determine").

Considering the constitutional text and context, § 5 provides no basis to hold Act 975 unconstitutional.

C. Amendment 80, § 4 is irrelevant to the Legislature's § 10 authority to assign jurisdiction.

Norris's reliance on Amendment 80, § 4, *see* Br. 8–9, is even more "undeveloped" than his arguments addressed above, and this Court "will not consider an issue that is not appropriately developed or supported by convincing argument." *Jones v. Prof. Background Screening Ass'n, Inc.*, 2020 Ark. 362, at 10–11, 610 S.W.3d 640, 646. In any event, his reliance on § 4 is misplaced. In three conclusory sentences and a Shakespeare quote, Norris asserts that confirming the Legislature's constitutional authority would make this Court's superintending

control under § 4 superfluous. *See* Br. 8–9. Norris specifically raises alarm about the Legislature “chang[ing] the [C]ourt’s rules.” *Id.* at 8.

That, however, is exactly what Amendment 80 allows the Legislature to do: “Any rules promulgated by the Supreme Court pursuant to Section[] 5 ... of this Amendment may be annulled or amended, in whole or in part, by a two-thirds (2/3) vote of the membership of each house of the General Assembly.” Ark. Const. amend. 80, § 9. The Legislature explicitly noted in Act 975 that it was relying on its § 9 authority. *See* Act 975 of 2025, § 1. Because Act 975 amends a rule promulgated under § 5, it falls squarely within the Legislature’s § 9 authority and does not encroach on this Court’s § 4 authority. Undersigned is unaware of any case in which the Court has exercised its § 4 superintending control in a way that would have conflicted with Act 975. *See, e.g., Steinbuch v. Pulaski Cnty. Cir. Ct.*, 2024 Ark. 101, 689 S.W.3d 56 (disciplinary order); *Parker v. Crow*, 2010 Ark. 371, 368 S.W.3d 902 (writ of certiorari when a circuit court purported to dissolve judicial districts). Tellingly, Norris offers no alternative explanation. *See* Br. 8–9.

Norris’s reliance on § 4 fails because that provision provides no limitation on the Legislature’s explicit constitutional authority under § 9 and § 10.

D. Recognizing the Legislature’s textual and historical authority does not violate the separation of powers.

Finally, Norris invokes the separation-of-powers principle embodied in Article 4, §§ 1 and 2 of the Arkansas Constitution. *See* Br. 9–10. Article 4, § 2 prohibits anyone in one branch of government from “exercis[ing] any power belonging to either of the others,” unless the Constitution “expressly” allows it.

Norris incorrectly assumes that assigning jurisdiction (like Act 975 does) is a judicial power, not a legislative one. *See* Br. 9 (asserting there is no constitutional “direction[] or permission[]” that allows the Legislature to assign jurisdiction). But assigning jurisdiction is a legislative power. *See Martin v. Humphrey*, 2018 Ark. 295, at 22, 558 S.W.3d 370, 383 (Womack, J., dissenting) (noting that § 10 “addresses legislative powers”). That is why the 1874 Constitution’s original language needed to explicitly prohibit the Legislature from reassigning jurisdiction. *See* Ark. Const. of 1874, art. VII, § 11 (granting circuit courts “exclusive jurisdiction” that the Legislature could “not ... vest[] in some other court”).

But even if assigning jurisdiction weren’t a legislative power, § 10 gives the Legislature “express[]” authority to assign jurisdiction. Ark. Const. art. 4, § 2. And the Legislature also has express authority under § 9 to amend this Court’s rules by supermajority vote.

Norris additionally makes a passing reference to laws being unconstitutional if they “deprive[] the courts of the power to decide a judicial question.” Br. 9. But Act 975 does not deprive the judiciary of adjudicating facial constitutional challenges; it only assigns where that adjudication occurs. And as explained throughout this brief, assigning jurisdiction is expressly within the Legislature’s authority.

REQUEST FOR RELIEF

For these reasons, the Court should affirm the circuit court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I filed a copy of the foregoing via the judiciary's electronic-filing system, on March 26, 2025, which notifies all counsel of record. Further, a copy will be emailed to the Honorable Tim Weaver.

/s/ Noah P. Watson

Noah P. Watson

CERTIFICATE OF COMPLIANCE

This brief complies with Administrative Order No. 19's requirements concerning confidential information, Administrative Order No. 21, § 9's requirement that briefs not contain hyperlinks to external papers or websites, and with the word-count limitation in Arkansas Supreme Court Rule 4-2(d), in that it contains 2,604 words within the jurisdictional statement, the statement of the case and the facts, the argument, and the request for relief.

/s/ Noah P. Watson

Noah P. Watson