

Tim DALEY, Paul PLUMMER and Ron  
GATEWOOD *v.* Thomas F. DIGBY, Judge

80-303

613 S.W. 2d 589

Supreme Court of Arkansas  
Opinion delivered April 6, 1981

1. JUDGMENTS — DECLARATORY JUDGMENTS — POWER OF CIRCUIT COURTS UNDER DECLARATORY JUDGMENT STATUTE. — Circuit courts have the power within their jurisdiction to declare the rights of parties under the Arkansas declaratory judgment statute, Ark. Stat. Ann. § 34-2501 (Repl. 1962).
2. COURTS — CIRCUIT COURTS — CORRECT METHOD OF ASCERTAINING JURISDICTION. — The correct method of ascertaining what jurisdiction circuit courts have in civil and criminal cases is to ask whether exclusive jurisdiction of the particular case is vested in another tribunal by the Arkansas Constitution.
3. MUNICIPAL CORPORATIONS — VALIDITY OF ACTIONS OF CITY CIVIL SERVICE COMMISSION — JURISDICTION OF CIRCUIT COURT TO DECLARE RIGHTS AND ISSUE INJUNCTIVE RELIEF. — No exclusive jurisdiction exists in chancery courts where a party seeks a ruling on the validity of city civil service actions; and, once the circuit court acquires jurisdiction to declare such rights, it may also issue injunctive relief.
4. COURTS — JURISDICTION OF CIRCUIT OR CHANCERY COURT — METHOD OF OBTAINING REVIEW IS BY APPEAL, NOT BY PROHIBITION. — The method of obtaining review on an issue of circuit or chancery jurisdiction is by appeal, not by prohibition.

On writ of prohibition to Pulaski Circuit Court, Third Division, *Thomas F. Digby*, Judge; writ denied.

*Jack T. Lassiter*, for petitioner Daley.

*Samuel A. Perroni*, for petitioner Plummer.

*Richard D. O'Brien*, for petitioner Gatewood.

*Steve Clark*, Atty. Gen., by: *R. B. Friedlander*, Asst. Atty. Gen., for respondent.

RICHARD B. ADKISSON, Chief Justice. This petition is from an order denying petitioners' motion to dismiss for lack of subject matter jurisdiction in the circuit court as opposed to chancery court. The complaint seeks to declare invalid the Little Rock Civil Service Commission's promotion list, to enjoin its use in making promotions within the Little Rock Police Department, and to rescind a promotion previously made from the list. The complaint further alleges that the Commission unlawfully delegated its testing authority to a special panel and that the special panel unlawfully conducted the examination.

Circuit courts have the power within their jurisdiction to declare the rights of parties under our declaratory judgment statute, Ark. Stat. Ann. § 34-2501 (Repl. 1962). And, the correct method of ascertaining what jurisdiction circuit courts have in civil and criminal cases is to ask whether exclusive jurisdiction of the particular case is vested in another tribunal by the Arkansas Constitution. *Adams v. State*, 153 Ark. 202, 240 S.W. 2d 5 (1922). No exclusive jurisdiction exists in chancery courts where the party seeks a ruling on the validity of city civil service commission actions. And, once the circuit court acquires jurisdiction to declare such rights it may also issue injunctive relief. See *Booth v. Baer*, 263 Ark. 213, 563 S.W. 2d 709 (1978).

We have considered the merits of this petition only because its procedural correctness has not been questioned. Nevertheless, the method of obtaining review on an issue of circuit or chancery jurisdiction is by appeal, not by prohibition. See *Richards v. Maner, Judge*, 219 Ark. 112, 240 S.W. 2d 6 (1951).

Writ denied.

DUDLEY, J., not participating.