

Magnolia FELTS & James Vernon FELTS, Guardian of
the Person & the Estate of Harry Ellis FELTS v. J. C. FORD

81-268

627 S.W. 2d 25

Supreme Court of Arkansas
Opinion delivered February 1, 1982

On petition for review; review denied.¹

John B. Mays and Brent W. Martin, for petitioners.

Burrow & Harlan, for respondent.

PER CURIAM. Petition for review is denied.

DARRELL HICKMAN, Justice, concurring. I agree that the petition in this case should not be granted because the petitioner did not comply with Rule 29, Rules of the Supreme Court. In a per curiam issued March 2, 1981, regarding Amendment to the Rules of the Supreme Court and Court of Appeals, we amended Rule 29 (6) to provide that no petition for a review of a Court of Appeals decision would be granted on the grounds that the case involved an issue of significant public interest or legal principle of major importance unless the party petitioning files with the Court of Appeals, before the case is submitted, a motion asking that the case be certified to us. Since that was not done in this case, we have to deny the petition. But I file this concurrence to strongly emphasize that I disagree with the decision reached by the Court of Appeals in this case. The

¹Petition for Review of decision in *Ford v. Felts, Gdn.*, 3 Ark. App. 235, 624 S.W. 2d 449 (1981).

Court of Appeals in a careful and considered opinion held in substance that a lease signed by the husband does not have to be joined in by the wife although the property is held as an estate by the entirety. To me the decision is wrong.

A decision by the Court of Appeals in Arkansas is recognized as binding on lower courts and unless we have ruled on that question, such a decision obviously carries weight. But it is not the final word in such a matter and until this Court rules on it, a decision by the Court of Appeals should not be considered by the bench and bar as the final word in the matter. *Posados v. Warner, Barnes & Company*, 279 U.S. 340 (1929).

I feel compelled to point out my position for posterity.

ADKISSON, C.J., and PURTLE, J., join.
