

POPE COUNTY *v.* Alex STREETT
and James K. YOUNG

84-192

682 S.W.2d 749

Supreme Court of Arkansas
Opinion delivered January 21, 1985

APPEAL & ERROR — CONSTITUTIONAL ARGUMENTS RAISED FIRST TIME ON APPEAL — SUPREME COURT WILL NOT CONSIDER. — The Supreme Court will not consider constitutional arguments raised for the first time on appeal, even though the trial court may have been made generally aware of the contention of unconstitutionality of the legislation or may have received other arguments of unconstitutionality.

Appeal from Pope Circuit Court; *John S. Patterson*, Judge; affirmed.

Steve Clark, Att'y Gen., by: *Randel K. Miller*, Asst. Att'y Gen., for appellant.

No response by appellees.

DAVID NEWBERN, Judge. The appellant county asserts the unconstitutionality of Ark. Stat. Ann. § 43-2419 (Repl. 1979). Our jurisdiction thus is based on Supreme Court and Court of Appeals Rule 29(1) (c).

The judgment required the county to pay pursuant to § 43-2419 attorney fees to the appellees for representing indigent defendants. The case was submitted to the circuit court on a stipulation of facts. The stipulation notes the contention of the county that the "statute is unconstitutional."

Nothing in the abstract or the record shows that the appellant gave the trial court any reason for holding the statute unconstitutional. In this court, however, the appellant argues that in a case in which a fine upon conviction goes to the city the statute requiring the county to pay fees to court appointed defenders of indigents violates Ark. Const. amend. 14 which prohibits local legislation, violates the state and federal constitutional requirements for equal protection and violates the constitutional requirement of separation of powers.

We will not consider constitutional arguments raised for the first time on appeal, *Taylor v. Patterson*, 283 Ark. 11, 670 S.W.2d 444 (1984), even though the trial court may have been made generally aware of the contention of unconstitutionality of legislation or may have received other arguments of unconstitutionality. *Sweeney v. Sweeney*, 267 Ark. 595, 593 S.W.2d 21 (1980).

Affirmed.