

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION I

CA06-199

December 20, 2006

DAVID B. WARREN

APPELLANT

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[CV 01-11377]

V.

DAIMLER CHRYSLER
CORPORATION

APPELLEE

HON. BARRY ALAN SIMS, CIRCUIT
JUDGE

AFFIRMED

Appellant David Warren argues on appeal that the amended complaint filed by appellee Daimler Chrysler Services of North America (“Daimler Chrysler”) should have been dismissed because it was not served on Warren personally as contemplated by Rule 5 of the Arkansas Rules of Civil Procedure. We affirm.

Warren financed a new 2000 Jeep Grand Cherokee on October 13, 1999, and signed an installment contract requiring him to make thirty-five payments of \$515.24 and a balloon payment of \$20,036.40. The contract was assigned to Daimler Chrysler on the day it was executed. A year later, Warren began having problems with the vehicle. Between August and December 2000, he complained of trouble with the brakes, transmission, fuel gauge, and rotors. On February 12, 2001, an arbitration hearing was held after Warren claimed

compensation under the Arkansas “Lemon Law.” His claim was denied. Warren thereafter continued his payments on the vehicle through April 2001, after which he made no further payments.

On October 31, 2001, Daimler Chrysler sued Warren for replevin, and on August 26, 2002, Daimler Chrysler repossessed the vehicle and eventually sold it at auction. Although Warren initially answered the complaint pro se, on May 10, 2002, attorney Edward Schieffler appeared on behalf of Warren. Mr. Schieffler filed several pleadings on behalf of Warren, but Mr. Schieffler was allowed to withdraw his representation on March 21, 2003. Warren proceeded pro se, and on October 22, 2003, the trial court entered an order dispensing with several motions and stated that “all pre-trial and post-judgment motions are hereby denied and case number CIV-01-11377 is hereby concluded and dispensed with before this Court.”

On March 8, 2005, Daimler Chrysler filed an amended complaint seeking a deficiency judgment against Warren. On behalf of Warren, attorney William Almand filed a motion to dismiss the amended complaint pursuant to civil procedure Rule 12(b)(5) on the ground that it was filed after the entry of a final order and that it was improperly served.

A hearing was held on September 20, 2005, where it was discovered that Daimler Chrysler had served its amended complaint on Mr. Almand, not personally on Warren. Warren argued that service was improper because he was proceeding pro se, therefore service had to be made on him personally. The court ruled that service was proper and granted the relief sought by Daimler Chrysler.

Although Warren argued below that Daimler Chrysler was required to serve him personally because he represented himself in the action, he changed his argument on appeal. On appeal, he contends—for the first time—that Daimler Chrysler was required to serve him personally because Rule 5(b)(1) of the Arkansas Rules of Civil Procedure requires service on the individual following the issuance of a final judgment where the court has continuing jurisdiction. However, arguments raised for the first time on appeal will not be considered because the trial court never had an opportunity to rule on them, and an appellant may not change his grounds for objection on appeal. *Stokes v. State*, 359 Ark. 94, 194 S.W.3d 762 (2004).

Warren was proceeding pro se at the time the October 2003 order was entered. Although Mr. Schieffler had represented Warren for a short time, Mr. Almand had never made an appearance in the case. Therefore, it was improper for Daimler Chrysler to serve Mr. Almand with the amended complaint—Daimler Chrysler should have personally served Warren. However, Warren has abandoned that argument on appeal. Issues raised below but not argued on appeal are considered abandoned, and we will not consider their merits. *Jordan v. State*, 356 Ark. 248, 147 S.W.3d 691 (2004).

Because Warren’s Rule 5 argument was made for the first time on appeal and because he abandoned his other improper-service claim on appeal, we affirm.

Affirmed.

GLOVER and CRABTREE, JJ., agree.

