

IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 51631

**TRACY TUCKER, JASON SHARP, NAOMI)
MORLEY, and BILLY CHAPPELL, on behalf)
of themselves and all others similarly situated,)**

Plaintiffs-Appellants,

v.

**STATE OF IDAHO; DARRELL BOLZ,)
ANGELA BARKELL, REP. DAVID)
CANNON, HON. LINDA COPPLE TROUT,)
DAN DINNING, BEN ANDERSEN, SEN.)
MELISSA WINTROW, and ERIC)
LEHTINEN, in their official capacities as)
members of the Idaho State Public Defense)
Commission,)**

Defendants-Respondents.

Boise, August 2025 Term

Opinion Filed: October 28, 2026

Melanie Gagnepain, Clerk

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Samuel A. Hoagland, District Judge.

The order of the district court is affirmed.

American Civil Liberties Union of Idaho, Boise; Hogan Lovells Cadwalader US LLP, Washington, DC; Ali & Lockwood LLP, Washington, DC; American Civil Liberties Union Foundation, New York; for Appellants. Joe Cavanaugh argued.

Raúl R. Labrador, Idaho Attorney General, Boise; Scanlan Griffiths + Aldridge as Special Deputy Attorney General, Boise, for Respondents. Joseph M. Aldridge argued.

Parsons, Behle & Latimer as Special Deputy Attorney General, Boise, for Respondents Eric Lehtinen and Ben Anderson.

BRODY, Chief Justice.

The Sixth Amendment to the United States Constitution and Article I, Section 13 of the Idaho Constitution guarantee an indigent criminal defendant the right to counsel at public expense. *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963); *State v. Montroy*, 37 Idaho 684, 690, 217 P. 611, 614 (1923). For well over a decade, Idaho's public defense system has struggled to meet that

guarantee. In 2015, Plaintiffs initiated this lawsuit to compel the State to fulfill its constitutional obligation, contending Idaho’s county-based system of public defense failed to provide adequate legal representation at key junctures. Over time, the Idaho Legislature has made a number of changes to that system. Critically, during the 2022 and 2023 legislative sessions, the Idaho Legislature took significant steps to relieve Idaho’s forty-four counties of the responsibility for funding indigent public defense services and created a centralized Office of the State Public Defender to coordinate the delivery of public defense services statewide through a single funding source from the state treasury. *See generally* State Public Defender Act, ch. 220, §1, 2023 Idaho Sess. Laws 662, 662–67; Act of Mar. 29, 2022, ch. 318, §§ 55–58, 2022 Idaho Sess. Laws 1011, 1029–30.

After two prior appeals to this Court, *see Tucker v. State (Tucker I)*, 162 Idaho 11, 394 P.3d 54 (2017); *Tucker v. State (Tucker II)*, 168 Idaho 570, 484 P.3d 851 (2021), and following the legislature’s enactment of the State Public Defender Act, the district court entered an order enjoining the State from ever returning to the prior public defense structures based on its “serious concerns” arising from Plaintiffs’ evidence of systemic violations of the right to counsel under those legacy systems. The district court otherwise dismissed the case, declining to enjoin—or to impose its own competing plan for reform on—the newly established, state-based public defense system.

In this third appeal, Plaintiffs contend the district court erred in concluding that the new system is unlikely to perpetuate the systemic constitutional violations of its predecessor and in declining to devise and enforce its own remedial plan. We are unpersuaded.

We hold that a district court properly exercises its remedial discretion when it declines to issue injunctive relief because doing so would conflict with, or duplicate the remedial efforts of, a coordinate branch of government. At the same time, we reiterate that empty promises will not suffice to justify a court’s staying its hand when a plaintiff is entitled to relief. In such cases, the defendant bears a heavy burden. When that burden is met—when it is apparent that the relief sought will be provided by the political branches—it is prudent for courts to refrain from interfering out of respect for the Idaho Constitution’s allocation of authority among the three branches of government. Ultimately, however, this determination rests within the district court’s sound exercise of remedial discretion. Finding no abuse of that discretion here, we affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case has a long and complex history, much of which this Court has already detailed in earlier opinions. *See Tucker v. State (Tucker I)*, 162 Idaho 11, 394 P.3d 54 (2017); *Tucker v. State (Tucker II)*, 168 Idaho 570, 484 P.3d 851 (2021). For purposes of this appeal, we recount only those factual and procedural milestones necessary to resolve the remedial question now before us.

Idaho historically relied on each of its forty-four counties to provide legal representation to indigent criminal defendants. I.C. § 19-859 (repealed 2023). Under this county-based scheme, the counties could choose to establish a county public defender's office, create a joint public defender's office with other counties, or contract with either an existing public defender's office or private attorneys to provide public defense services. *See id.* This flexibility meant that counties were also responsible for funding whatever model they adopted. I.C. § 19-862 (repealed 2023). In January 2010, the National Legal Aid and Defender Association (NLADA) authored a report concluding that Idaho's county-based public defense system failed to meet the State's obligation to provide representation to indigent criminal defendants consistent with the Sixth Amendment to the United States Constitution.

In response to the NLADA report, the legislature created the Idaho State Public Defense Commission in 2014. *See Idaho Public Defense Act*, ch. 247, § 2, 2014 Idaho Sess. Laws 616, 617. The legislature tasked the Commission with promulgating standards for indigent public defense across the state and, two years later, with supplementing county funding for those services with state grant funding. *Id.* § 3, at 618; Act of Mar. 24, 2016, ch. 195, § 1, 2014 Idaho Sess. Laws 544, 546–47. This marked Idaho's transition from a purely county-based public defense structure to a state-assisted structure.

Seven years later, following Plaintiffs' second appeal to this Court, *see Tucker II*, 168 Idaho 570, 484 P.3d 851, the legislature took the first step toward transitioning to an entirely state-based public defense system. During the 2022 legislative session, it enacted a property tax package that shifted the financial burden for indigent public defense services exclusively from Idaho's counties to the state. Act of Mar. 29, 2022, ch. 318, § 55, 2022 Idaho Sess. Laws 1011, 1029. The legislature also expressed its intent to establish a state-based public defense system at the conclusion of the 2023 legislative session. *Id.* § 1, at 1012. It followed through on that commitment the following year by enacting the State Public Defender Act ("SPDA"). *See generally* ch. 220, § 1, 2023 Idaho Sess. Laws 660, 662–67.

In the SPDA, the legislature created the Office of the State Public Defender, a self-governing executive agency led by the State Public Defender and supported by District Public Defenders in each judicial district. *Id.* § 1, at 662–64. The State Public Defender is responsible for staffing, supervising, and providing the infrastructure necessary to deliver indigent public defense services statewide. *Id.* § 1, at 663–64. These responsibilities include, among others, implementing American Bar Association standards governing indigent defense—particularly with respect to caseloads—providing continuing legal education to defense attorneys, establishing uniform recordkeeping policies, and adopting standardized contracts and policies for engaging contract defense counsel. *Id.* At the time the State filed its brief in this appeal, it noted that “the State Public Defender ha[d] been in charge of indigent defense in Idaho for less than two months.”

While all of these legislative reforms were unfolding, Plaintiffs attempted to expand this action against the State and several state officials by seeking to certify a class action in district court on claims brought under 42 U.S.C. § 1983, alleging violations of the Sixth and Fourteenth Amendments and Article I, Section 13 of the Idaho Constitution. Plaintiffs alleged that “the State provides inadequate funding, training, and supervision to support the delivery of indigent defense services” across Idaho. They identified several “constitutional and statutory” deficiencies “linked to the State’s longstanding and ongoing failure to provide the funding, supervision, and training necessary to meet its legal obligations,” including excessive caseloads; inadequate support staff, including investigators and experts; a lack of public defender independence from political and judicial influence; and the inability to facilitate confidential communication between public defenders and defendants, among others.

Plaintiffs sought declaratory and injunctive relief directing the State to cease the alleged systemic violations of indigent defendants’ rights and to submit to the court “an implementation and internal monitoring plan” to improve public defense services. They also requested that the court appoint “an independent, external monitor to oversee and evaluate the State’s public defense system.”

Initially, the district court dismissed the complaint, ruling that Plaintiffs’ claims were not justiciable based on standing, ripeness, and separation of powers. *Tucker I*, 162 Idaho at 19, 394 P.3d at 61. On appeal, this Court affirmed the dismissal of the claims against the Governor but reversed in part, holding that the remaining claims could proceed against the State. *Id.* at 30, 394 P.3d at 73. On remand, Plaintiffs and the State filed cross-motions for summary judgment. *Tucker*

II, 168 Idaho at 573, 484 P.3d at 854. The district court denied both motions and sua sponte authorized a permissive appeal to this Court to determine the standard applicable “in a lawsuit challenging the public defense system for the State of Idaho” and “the burden of the respective parties going forward.” *Id.* We granted the appeal and explained that, to succeed on their constitutional challenge, Plaintiffs must prove by a preponderance of the evidence that Idaho’s public defense system suffers from “widespread, persistent structural deficiencies” that likely will result in denials of counsel at critical stages:

To obtain declaratory or injunctive relief, Plaintiffs must prove by a preponderance of the evidence that Idaho’s public defense system suffers from widespread, persistent structural deficiencies that likely will result in indigent defendants suffering actual or constructive denials of counsel at critical stages of criminal proceedings.

Id. at 584–85, 484 P.3d at 865–66. We further explained that this standard must be applied consistently with the traditional requirements for injunctive relief: “the likelihood of substantial and immediate irreparable injury, and the inadequacy of remedies at law.” *Id.* at 585, 484 P.3d at 866.

Following remand in *Tucker II*, and shortly after enactment of the SPDA, the State moved to dismiss the lawsuit for lack of subject matter jurisdiction under Idaho Rule of Civil Procedure 12(b)(1). The State argued that the case was no longer justiciable because the SPDA dissolved the Public Defense Commission and transferred its responsibilities to the newly created Office of the State Public Defender. In its view, because the challenged county-based system no longer existed, any declaratory or injunctive relief would amount to an advisory opinion regarding the adequacy of the new state-wide system. The State also argued that Plaintiffs lacked standing because they could not demonstrate an actual or imminent injury under the SPDA and that their claims had been redressed by the Idaho Legislature’s statutory reforms, including increased funding, training standards, and attorney workload limits.

The parties also filed cross-motions for summary judgment, each supported by extensive, competing expert declarations and reports. Plaintiffs’ motion sought three forms of relief. First, they requested findings of fact establishing that no genuine dispute existed regarding deficiencies in Idaho’s public defense system, including excessive caseloads and inadequate access to necessary support services. Second, they sought a declaratory judgment that these deficiencies “create a substantial risk that indigent defendants in Idaho will be actually or constructively denied counsel,” rendering the system unconstitutional. Third, they asked the court to require the State to submit,

within two years, a detailed remedial plan, subject to oversight by an independent, court-appointed monitor.

The State, in turn, argued that Plaintiffs could not demonstrate a substantial risk of future irreparable harm because the SPDA would fundamentally change how indigent defense services are provided in Idaho beginning in October 2024. It criticized Plaintiffs for relying on a “thirty-thousand-foot view” based primarily on caseload statistics. The State further contended that summary judgment was appropriate because, in the years since this Court ruled in *Tucker I* that the Public Defense Commission’s alleged failures to promulgate rules governing training and caseload standards satisfied redressability standards, “the landscape of Idaho’s public defense system [had] changed significantly.” It emphasized that the Commission had since promulgated rules governing attorney training and caseloads and that the legislature had initiated a comprehensive overhaul of the system, including increased funding through the SPDA. In the State’s view, Plaintiffs’ evidence failed to account for these ongoing reforms.

In February 2024, the district court issued an amended memorandum decision and order. It granted Plaintiffs’ motion for summary judgment in part, concluding Idaho’s public defense system “as it existed when summary judgment was sought” raised “serious concerns” regarding the adequacy of the prior county-based system in light of Plaintiffs’ evidence. However, the court also determined that the State had met its burden of showing that future harm was unlikely under the new state-based system given “the changes made by the State since the Second Amended Complaint was filed.”

The district court further concluded that imposing its own remedial plan could “duplicate the State’s efforts and waste finite public resources,” “invite intergovernmental confusion and conflict,” or “delay the efforts already underway.” It determined that the “substantial efforts” of the legislative and executive branches to reform public defense services informed its exercise of remedial discretion and supported its conclusion that further litigation had become moot and that additional relief would be unnecessary, if not counterproductive. Accordingly, the district court enjoined the State from “reviv[ing] the old county-based system in any materially similar form” but otherwise granted the State’s Rule 12(b)(1) motion to dismiss on prudential mootness grounds. This appeal followed.

II. STANDARD OF REVIEW

When a district court dismisses on prudential mootness grounds, it effectively declines to issue injunctive relief because the defendant has suitably demonstrated that there no longer remains any “further threat of injury necessitating an injunction.” *O’Boskey v. First Fed. Sav. & Loan Ass’n of Boise*, 112 Idaho 1002, 1007, 739 P.2d 301, 306 (1987); accord *Winzler v. Toyota Motor Sales U.S.A., Inc.*, 681 F.3d 1208, 1210 (10th Cir. 2012). The decision to do so springs from the court’s remedial discretion as a court sitting in equity. *Conley v. Whittlesey*, 133 Idaho 265, 273, 985 P.2d 1127, 1135 (1999) (“The granting or refusal of an injunction is a matter resting largely in the trial court’s discretion.” (citations omitted)). “The court which is to exercise the discretion is the trial court and not the appellate court, and an appellate court will not interfere absent a manifest abuse of discretion.” *Harris v. Cassia County*, 106 Idaho 513, 517, 681 P.2d 988, 992 (1984).

We review an alleged abuse of the district court’s remedial discretion under a “multi-tiered inquiry” which asks “[w]hether the [district] court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018) (citation omitted).

III. ANALYSIS

A. The district court erred by granting the State’s Rule 12(b)(1) motion, but its error was not prejudicial because the court’s ruling on prudential mootness was dispositive.

We begin by addressing the district court’s disposition of this case through the State’s motion to dismiss under Rule 12(b)(1) of the Idaho Rules of Civil Procedure. Rule 12(b)(1) permits a defendant to move to dismiss an action on the ground that the court lacks subject-matter jurisdiction. I.R.C.P. 12(b)(1). Such a motion challenges the court’s authority to “hear and determine cases” of the kind before it. *See State v. Rogers*, 140 Idaho 223, 228, 91 P.3d 1127, 1132 (2004). Because justiciability doctrines likewise evaluate “appropriate or suitable occasions for adjudication by a court,” *State v. Philip Morris, Inc.*, 158 Idaho 874, 881, 354 P.3d 187, 194 (2015), we held in *Tucker v. State (Tucker I)* that Rule 12(b)(1) is the proper procedural vehicle to contest justiciability, 162 Idaho 11, 18, 394 P.3d 54, 61 (2017).

Mootness is a justiciability doctrine. “A case becomes moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” *Farrell v. Whiteman*, 146 Idaho 604, 610, 200 P.3d 1153, 1159 (2009) (citing *Idaho Schs. for Equal Educ. Opportunity*

v. Idaho State Bd. of Educ., 128 Idaho 276, 281, 912 P.2d 644, 649 (1996)). Put differently, mootness asks whether “an intervening circumstance has deprived the plaintiff of a personal stake in the outcome of the lawsuit.” *Moore v. Harper*, 600 U.S. 1, 14 (2023) (citation and internal quotation marks omitted). Like any other assertion that a case is non-justiciable, a defendant should raise a mootness challenge in a Rule 12(b)(1) motion. See *Tucker I*, 162 Idaho at 18, 392 P.3d at 61.

The district court expressly acknowledged that this case “remain[s] a live controversy” and that its task was not to decide whether jurisdiction persisted, but to decide whether issuing injunctive relief remained, in its words, “the prudent choice,” in light of “policy changes and remedial promises” made by the Idaho Legislature and by the newly created Office of the State Public Defender. Indeed, the district court made a merits determination, partially granting Plaintiffs’ summary judgment motion and further granting limited injunctive relief—prohibiting the State from returning to the prior county-based or state-assisted delivery models—before “otherwise” dismissing the case under the State’s Rule 12(b)(1) motion. It did so not because jurisdiction was lacking, but because “prudence and comity for coordinate branches of government counsel[ed]” withholding further relief. (Quoting *Chamber of Com. v. U.S. Dep’t of Energy*, 627 F.2d 289, 291 (D.C. Cir. 1980)). In short, the district court granted dismissal on prudential mootness grounds rather than on a justiciability (mootness) theory cognizable under Rule 12(b)(1).

A Rule 12(b)(1) motion is not the proper vehicle for a dismissal premised on prudential mootness. Rule 12(b)(1) governs the court’s power to adjudicate; prudential mootness, by contrast, concerns the court’s remedial discretion as a court of equity—its authority to “mould each decree to the necessities of the particular case,” and its “concomitant power to deny relief altogether unless the moving party can satisfy the court that relief is needed.” *Winzler v. Toyota Motor Sales U.S.A., Inc.*, 681 F.3d 1208, 1210 (10th Cir. 2012). The district court therefore conflated mootness as a justiciability doctrine with prudential mootness as a remedial one.

Even so, the district court’s misstep does not require reversal. As we explain below, the district court’s prudential mootness analysis was dispositive. Once the district court determined that injunctive relief against the newly implemented state-based public defense system would be imprudent—given the structural reforms underway and its finding that future systemic harm was unlikely—dismissal was inevitable. That the district court embedded this determination within a Rule 12(b)(1) disposition instead of under the summary judgment motion is therefore harmless

error that we disregard on appeal. *See* I.R.C.P. 61 (“At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party’s substantial rights.”); *see also Hernandez-Santiago v. Ecolab, Inc.*, 397 F.3d 30, 34 (1st Cir. 2005) (holding trial court erred in dismissing case on the merits on a 12(b)(1) motion but that appellate court “could still affirm if dismissal of the complaint would be the obvious result of a remand.”).

B. The district court properly exercised its remedial discretion in dismissing the case on prudential mootness grounds.

Looking past the district court’s inconsequential procedural error, we treat its dismissal as an exercise of its remedial discretion informed by the doctrine of prudential mootness, and we proceed to review its decision under the four-part abuse-of-discretion inquiry. *See Martel v. Bulotti*, 138 Idaho 451, 453, 65 P.3d 192, 194 (2003) (“This Court may uphold decisions on alternate grounds from those stated in the findings of fact and conclusions of law on appeal.” (citations omitted)). We conclude that the district court’s dismissal—based on its determination that the legislature has already provided Plaintiffs with the relief they seek through enactment of the SPDA—was not an abuse of discretion.

The first step in an abuse-of-discretion inquiry is to determine whether the district court understood that the issue before it was one appealing to its discretion. *Lunneborg v. My Fun Life*, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018). In the present case, it is apparent that the district court understood it was being asked to exercise its remedial discretion to fashion appropriate relief. Despite its procedurally incorrect resolution of the remedial question through a Rule 12(b)(1) motion, the district court cited *Miller v. Ririe Joint School District No. 252*, 132 Idaho 385, 973 P.2d 156 (1999), for the proposition that “whether to grant equitable relief, including injunctive and declaratory, is discretionary.” And in exercising that discretion it relied on Idaho and federal cases explaining that a court may exercise its remedial discretion to decline to award injunctive relief when “prudence and comity for coordinate branches of government counsel [the] [c]ourt to stay its hand and withhold the relief that it has the power to grant.” (Quoting *Chamber of Com. v. U.S. Dep’t of Energy*, 627 F.2d 289, 291 (D.C. Cir. 1980)). Accordingly, it is sufficiently clear that the district court correctly perceived the issue before it as one implicating its discretionary remedial powers as a court sitting in equity.

Next, the abuse of discretion inquiry turns to whether the district court “acted within the outer boundaries of its discretion.” *Lunneborg*, 163 Idaho at 863, 421 P.3d at 194. It is practically a matter of course that a district court sitting in equity is “granted broad discretion in fashioning

equitable relief.” *Id.* at 867, 421 P.3d at 198 (citing *Rowe v. Burrup*, 95 Idaho 747, 750, 518 P.2d 1386, 1389 (1974)). Broad remedial discretion acknowledges that “men’s actions are so diverse and infinite, that it is impossible to make any general law which may aptly meet with every particular act, and not fail in some circumstances,” *The Earl of Oxford’s Case in Chancery*, 21 Eng. Rep. 485, 486 (1615), and is intrinsic to the Anglo-American legal tradition, *see* Douglas Laycock, *The Triumph of Equity*, 56 L. and Contemp. Probs. 53, 71–73 (1993). Occasionally, a court’s remedial discretion is guided by statute. *E.g.*, *Chambers v. Thomas*, 123 Idaho 69, 73, 844 P.2d 698, 702 (1992) (affirming the trial court’s equitable redemption procedure because it was consistent with statute). But in the absence of statutory guidance, as in the present case, this Court has held that injunctive relief must be “no broader than necessary to cure the effects of the harm caused.” *Snap! Mobile, Inc., v. Vertical Raise, LLC*, 173 Idaho 499, 513, 544 P.3d 714, 728 (2024) (citation and internal quotation marks omitted).

We are persuaded that the district court’s relief was no broader than necessary and therefore fell within the outer bounds of its remedial discretion. Plaintiffs, in fact, appear to fault the district court for not fashioning *broader* relief; they essentially urge this Court to hold that the district court should have devised and enforced its own plan of reform on the new, state-based public defense enterprise, in addition to enjoining the State’s return to the county-based and county-based state-assisted structures. But such relief would have been inconsistent with the district court’s ruling on Plaintiffs’ summary judgment motion, in which it implicitly acknowledged the constitutional defects of the legacy public defense structures. Based on the Plaintiffs’ evidence, the district court found that the prior structures failed to provide indigent criminal defendants with representation consistent with the federal and Idaho Constitutions, expressing “serious concerns” about the “adequacy” of those systems.

At the same time, the district court concluded that the State had met its “heavy” burden of showing that, prospectively, these inadequacies were unlikely to persist under the new state-based system created by the legislature through the SPDA. *O’Boskey v. First Fed. Sav. & Loan Ass’n of Boise*, 112 Idaho 1002, 1007, 739 P.2d 301, 306 (1987). Accordingly, the district court’s injunctive relief reflected its findings on the merits: it enjoined the State from returning to the prior structures, which Plaintiffs had shown to be constitutionally deficient, while “staying its hand” to allow the State to implement the reformed public defense system without judicial interference. *See Chamber of Com.*, 627 F.2d at 291. Because the district court’s injunction was “no broader than necessary

to cure the effects of the harm” it identified, *Snap!*, 173 Idaho at 513, 544 P.3d at 728 (citation and internal quotation marks omitted), we conclude that the district court “acted within the outer boundaries of its discretion” in fashioning the relief it did, *Lunneborg*, 163 Idaho at 863, 421 P.3d at 194.

At the third step of an abuse-of-discretion analysis, we consider whether the district court “acted consistently with the legal standards applicable to the specific choices available to it.” *Lunneborg*, 163 Idaho at 863, 421 P.3d at 194. In *Tucker II*, this Court defined the Plaintiffs’ burden to obtain declaratory or injunctive relief against the State:

Plaintiffs must prove by a preponderance of the evidence that Idaho’s public defense system suffers from widespread, persistent structural deficiencies that likely will result in indigent defendants suffering actual or constructive denials of counsel at critical stages of criminal proceedings.

168 Idaho 570, 584–85, 484 P.3d 851, 865–66 (2021). Once Plaintiffs satisfy this burden, the State may avoid or limit injunctive relief only by carrying the “heavy” burden of showing that the challenged conduct has ceased and that “there is no reasonable expectation” it will recur. *O’Boskey*, 112 Idaho at 1007, 739 P.2d at 306 (quoting *United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953)).

The Plaintiffs have spent much of this appeal arguing that the State has no opportunity to preclude or narrow the scope of injunctive relief once the Plaintiffs have satisfied this showing because, in their view, “prudential mootness has no place in Idaho jurisprudence.” They appear to read the rule in *O’Boskey* as announcing a standard for when a defendant may render a case nonjusticiable rather than merely unsuitable for injunctive relief. Plaintiffs further argue that even if *O’Boskey* does countenance the remedy-focused prudential mootness doctrine, the State has not met its heavy burden on the record in this case. We disagree on both scores.

First, *O’Boskey* plainly recognizes that an Idaho court sitting in equity has the remedial discretion to deny injunctive relief when a defendant makes a convincing showing that it is unlikely to repeat the complained of conduct. *Id.* When the defendant makes such a showing, we might term the case “prudentially” or “remedially” moot, or we might simply recognize that the defendant has convincingly appealed to the district court’s remedial discretion to preclude or narrow the scope of an injunction. Whatever term we assign to this concept, *O’Boskey* should not be mistaken for a case about justiciability.

In *O’Boskey*, the crux of the appellant’s claim of error on appeal was that the district court erred in enjoining it from enforcing the contractual provision at issue because “there was no further threat of injury necessitating an injunction.” 112 Idaho at 1007, 739 P.2d at 306. Neither party argued that the district court lacked the power to hear the case altogether, and we reviewed the appellant’s claim of error under an abuse-of-discretion standard, which we apply to a district court’s exercise of remedial discretion. *Id.* at 1005, 1007, 739 P.2d at 304, 306. We ultimately affirmed the district court’s conclusion that the appellant had failed to convincingly demonstrate that its attempts to enforce the contractual provision had come to an end for good. *Id.* at 1008, 739 P.2d at 307. Put simply, like the present case, *O’Boskey* concerns the district court’s decision to issue (or not issue) injunctive relief, not its power to decide the case.

Tellingly, our holding in *O’Boskey* relies on the reasoning of the United States Supreme Court in *United States v. W. T. Grant Co.*, 345 U.S. 629 (1953). Much like *O’Boskey*, *W. T. Grant* says nothing about a federal court’s power to hear the case. *See id.* at 632 (“Both sides agree to the abstract proposition that voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case, i.e., does not make the case moot.”). Instead, the rule *W. T. Grant* announces pertains to the trial court’s exercise of remedial discretion, more specifically, the circumstances under which it is appropriate for a court to refrain from enjoining a defendant who foreswears inflicting further harm on the plaintiff. *Id.* at 633. While *W. T. Grant* interchangeably uses the term “moot” to refer to both justiciability and remedial discretion, it is decidedly not a case about justiciability. *Id.* (observing that the defendants’ “profession” that illegal “interlocks” no longer existed “does not suffice to make a case moot” but “is one of the factors to be considered in determining the appropriateness of granting an injunction against the now-discontinued acts.”).

The Plaintiffs attempt to obscure this reality by insisting remedial mootness is “in tension” with this Court’s “constitutional mootness jurisprudence.” Not so. Again, whether a case is justiciable is entirely separate from whether a court sitting in equity will provide Plaintiffs the injunctive relief they seek. Relying on *Nelson v. Marshall*, 94 Idaho 726, 728–29, 497 P.2d 47, 49–50 (1972), and *Idaho Schools for Equal Education Opportunity ex rel. Eikum v. Idaho State Board of Education ex rel. Mossman*, 128 Idaho 276, 282, 912 P.2d 644, 650 (1996) (“*ISEEO II*”), the Plaintiffs correctly note that this Court has typically taken a skeptical view of strategic efforts by a defendant to “moot” a case. Yet these cases are entirely inapt because they speak to mootness as

a justiciability concept rather than a remedial one. In the present case, the district court did not hold that it lacked the power to decide the case. To the contrary, it *did* decide the case and in doing so partially granted Plaintiffs’ summary judgment motion and prayer for relief, enjoining the state from returning to the former county-based and county-based, state-assisted structures. The district court’s decision to “otherwise” dismiss the case, denying Plaintiffs’ relief against the new, state-based structure, stems from its remedial discretion, not from its obligation to dismiss a non-justiciable case. By contrast, *ISEEO II* and *Nelson* exclusively concern dismissals based on non-justiciability (mootness). These cases offer no insight on the remedial question at issue here.

If anything, remedial mootness is a natural corollary to an equity court’s broad discretion to “mould each decree to the necessities of the case.” *Hetch Co. v. Bowles*, 321 U.S. 321, 329 (1944). While the term may suggest novelty, it is more accurately understood as a descriptive label for a familiar exercise of equitable discretion. To suggest that this Court needed to have expressly “recognized” remedial mootness in name before a district court can consider legislatively enacted policy changes in evaluating the propriety of injunctive relief appears to us inconsistent with the long history of equity practice. *See Laycock, supra*, at 71; *W. T. Grant*, 345 U.S. at 633 (“The chancellor’s decision is based on all the circumstances; his discretion is necessarily broad . . .”).

Second, it is not the role of this Court to reweigh the evidence to determine if harm is likely under the new state-based public defense system. That is a question of fact that we leave to the district court to make. *See Litster Frost Injury Laws. v. Idaho Injury Law Grp., PLLC*, 171 Idaho 1, 16, 518 P.3d 1, 16 (2022) (“What will do equity in a particular case necessarily involves questions of fact.”). So long as the district court’s conclusions are supported by substantial and competent evidence in the record—which, as we explain, is true in the present case—we will not disturb the district court’s findings of fact on appeal. *Gem State Roofing, Inc. v. United Components, Inc.*, 168 Idaho 820, 828–29, 488 P.3d 488, 496–97 (2021).

Applying the standards announced in *Tucker II* and *O’Boskey*, the district court appeared to accept the allegations Plaintiffs made against the county-based and county-based, state-assisted systems as true, granting in part Plaintiffs’ summary judgment motion and noting its “serious concerns” over the constitutionality of those systems arising from Plaintiffs’ evidence. However, it also determined that continued violations of indigent defendants’ constitutional rights were unlikely under the new, state-based system. The State had eliminated the prior systems and adopted a centralized, state-based public defense enterprise in their place; that new system is headed by an

experienced public defense attorney and guided by statutorily adopted public defense practice standards promulgated by the American Bar Association. Moreover, the SPD is statutorily obligated to implement workload standards, training and continuing legal education requirements, and appropriate staffing levels for attorneys, experts, investigators, and other professionals across the state. *See generally* State Public Defender Act, ch. 220, §1, 2023 Idaho Sess. Laws 662, 663–64. And the legislature has provided a consolidated funding stream for public defense to facilitate confidential meeting space and the hiring and retention of attorneys. From this, the district court concluded, “[t]hese economies of scale will improve efficiencies and overall quality of services, not reduce efficiencies and quality.” It further concluded that any concerns about improper political and judicial influence on Idaho’s public defense enterprise has been mitigated because the new SPD “maintained independence in his former role as State Appellate Public Defender, as did the attorneys working under him.”

As the district court recognized, these reforms are far from “minor.” They reflect a deliberate effort by the Idaho Legislature to comprehensively redesign the State’s delivery of indigent public defense services to prevent systemic denials of the right to counsel. *Cf. O’Boskey*, 112 Idaho at 1007, 739 P.2d at 306 (noting the district court granted injunctive relief because, inter alia, defendant “gave no indication” that it would refrain from unlawfully enforcing contractual provision against potential class members). Nor are the changes the product of an eleventh-hour “protestation of repentance and reform.” *Cf. id.* (noting that the district court granted injunctive relief despite an affidavit from a bank executive offered after class certification stating that the bank would no longer enforce provision against potential class members). Rather, the legislature developed the new state-based system over two legislative sessions and the Executive continues to implement the SPDA’s directives.

It is hardly an abuse of the district court’s discretion to conclude, based on this evidence, that the remedial commitments of a coordinate branch of government “bear special gravity.” *See Winzler*, 681 F.3d at 1211. This is not a case in which a private actor—or even a government actor exercising discretionary authority—simply promises to do better. It is one in which the people’s elected representatives have comprehensively restructured a public institution after years of deliberation and have imposed clear statutory mandates to ensure the SPDA’s implementation. *Cf. id.* (holding dismissal on prudential mootness grounds was appropriate because defendant had

legally obliged itself to provide the remedy plaintiff sought once defendant made a certain filing with its regulator).

We recognize that Plaintiffs presented substantial evidence that the former county-based and county-based, state-assisted systems were plagued by excessive caseloads, inadequate staffing, and improper political and judicial pressures. Moreover, the district court had reason to conclude that this evidence convincingly demonstrates the deficiencies of those prior systems and entered a judgment prohibiting the state from returning to those systems. But that evidence sheds almost no light on whether those shortcomings are likely to persist under the newly implemented state-based system, thereby warranting prospective injunctive relief. The law requires more than a hunch that the new system will simply reprise the failures of its predecessors. *See Winzler*, 681 F.3d at 1212 (“[I]t’s not enough merely to speculate about or imagine how our coordinate branches might fail.”). Plaintiffs’ voluminous evidentiary submissions do not obscure their inability to make any prognostication about what will transpire under the new state-based system.

The bottom line is that the district court acted consistently with the standards set forth in *Tucker II* and *O’Boskey* by enjoining the State from reinstating the prior county-based and county-based, state-assisted structures but declining to duplicate the legislative reforms embodied in the SPDA following the reasoning of remedial mootness doctrine. We do not find in this reasoning an abuse of the district court’s remedial discretion.

Finally, at the last step of an abuse-of-discretion inquiry, we ask whether the district court’s decision was guided by reason. *Lunneborg*, 163 Idaho at 863, 421 P.3d at 194. More specifically, our task here is to determine whether a reasonable jurist could adopt the district court’s rationale for dismissal. *See Am. Semiconductor, Inc. v. Sage Silicon Sols., LLC*, 162 Idaho 119, 135, 395 P.3d 338, 354 (2017). If reasonable a jurist could disagree about the propriety of dismissal on remedial-mootness grounds, “it cannot be said that the trial court abused its discretion.” *See* Henry J. Friendly, *Indiscretion About Discretion*, 31 Emory L. J. 747, 763 (1982) (quoting *Delno v. Market Street Railway*, 124 F.2d 965, 967 (9th Cir. 1942)).

We find in the district court’s amended memorandum decision and order a carefully reasoned remedial scheme. The court awarded Plaintiffs injunctive relief against the county-based and county-based, state-assisted public defense structures based on compelling evidence that they produced systemic violations of the right to counsel. At the same time, the district court stayed its

hand out of respect for a legislatively enacted reform effort actively being implemented by the Executive. That balance reflects a remedial judgment on which reasonable jurists could differ.

Start with the evidence. The Plaintiffs insist the district court “never assessed whether the State carried its burden” to preclude or limit injunctive relief under *O’Boskey*. But the record contradicts that assertion. The district court examined the history of public-defense reform in Idaho; the structure of the new, state-based system; the declaration of the new SPD; and the additional policy changes enacted in the SPDA. From that evidence, the district court concluded that the SPDA was not an “empty promise” or an eleventh-hour reform designed to moot Plaintiffs’ case, and that the features of the statute and the system it created made future systemic violations of the right to counsel unlikely.

The district court also declined to draw the inference Plaintiffs urged—namely, that because Idaho’s earlier public-defense models suffered from longstanding deficiencies, the new state-based system necessarily would as well. A reasonable jurist might have accepted that inference, but it is equally reasonable, in light of the SPDA and the efforts underway to implement it, to decline to do so. We will not reweigh that evidence to reach a different conclusion. *See Litster Frost*, 171 Idaho at 16, 518 P.3d at 16.

Plaintiffs further contend that the district court “repackaged separation-of-powers concerns this Court has already dismissed,” invoking *Tucker I*, 162 Idaho at 28–30, 394 P.3d at 71–72. Once again, Plaintiffs conflate justiciability with remedial discretion. The separation of powers doctrine, grounded in Article II, Section 1 of the Idaho Constitution, prohibits the judiciary from “substituting its judgment for that of another coordinate branch” when the matter is entrusted to that branch. *Miles v. Idaho Power Co.*, 116 Idaho 635, 639, 778 P.2d 757, 761 (1989). The doctrine therefore limits a court’s authority to decide particular cases. Here, however, the district court’s reasoning did not question the justiciability of the Plaintiffs’ claims. Instead, it addressed the propriety of devising and supervising its own plan to reorganize the state’s public defense system.

The district court expressed concern that any judicially crafted reform plan “might duplicate the State’s efforts and waste finite public resources,” “invite inter-governmental confusion and conflict over the details of carrying out an agreed objective,” or “further delay the efforts already underway, all while not offering an inkling of additional relief for Plaintiffs and the class members they represent.” These are precisely the pragmatic considerations an equity court may weigh when determining whether to issue injunctive relief. They do not suggest the district

court believed the case nonjusticiable. Rather, they reflect a recognition of the institutional limits of the judiciary—and of the risks inherent in displacing a coordinated legislative and executive reform effort. See William A. Fletcher, *The Discretionary Constitution: Institutional Remedies and Judicial Legitimacy*, 91 Yale L.J. 635, 641 (1982). Although that concern overlaps with the normative basis for the separation of powers doctrine, it is not an application of that doctrine to bar review.

In the end, the district court was skeptical that a judicially designed reform program would provide Plaintiffs with a more effective remedy than the one already underway by virtue of the SPDA. That conclusion does not “repackage” separation of powers concerns; it reflects a reasoned evaluation of remedial efficacy. It was therefore a legitimate factor in the district court’s exercise of its equitable discretion.

In closing, we note that whether the state-based public-defense system created by the SPDA will ultimately succeed is not for us to decide today. Our task is narrower. We hold only that the district court did not abuse its discretion in enjoining a return to the troubled county-based models, and permitting the Idaho Legislature and Executive, rather than the judiciary, to supply the prospective remedy Plaintiffs seek. Under the new system, courts will continue to perform the role they always have: ensuring, case by case, that criminal defendants receive representation consistent with the Sixth Amendment and Article I, Section 13 of the Idaho Constitution, and vacating any convictions obtained in proceedings where the State has failed to meet those obligations. *E.g.*, *Wurde mann v. State*, 161 Idaho 713, 722, 390 P.3d 439, 448 (2017) (affirming district court’s finding of ineffective assistance of counsel and vacatur of convictions); *Savage v. State*, 166 Idaho 169, 173, 457 P.3d 150, 154 (2020) (reversing district court’s summary dismissal of post-conviction petition because facts established prima facie case that public defender provided deficient advice).

C. The district court did not err in declining to award attorney fees to Plaintiffs.

Finally, Plaintiffs argue that the district court erred in declining to award them attorney fees pursuant to 42 U.S.C. § 1988 and Idaho’s private attorney general doctrine. We review the district court’s denial of attorney fees for an abuse of discretion.

Section 1988 allows a prevailing party in an action brought under 42 U.S.C. § 1983 to recover “a reasonable attorney’s fee as part of the costs.” 42 U.S.C. § 1988(b). A prevailing party is “the party ultimately prevailing when the matter is finally set at rest.” *Lackey v. Stinnie*, 604 U.S.

192, 199 (2025) (quoting Black’s Law Dictionary 1352 (rev. 4th ed. 1968) (internal quotation marks omitted)). Prevailing-party status only requires the plaintiff to realize at least “some of the benefit the parties sought in bringing suit.” *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983) (citations and internal quotations omitted). In other words, the plaintiff may prevail on *some* of their claims, not all of them, and still be eligible for attorney’s fees under section 1988. *Hanrahan v. Hampton*, 446 U.S. 754, 757–58 (1980). Importantly, however, “[w]hatever relief the plaintiff secures must directly benefit him at the time of the judgment or settlement.” *Farrar v. Hobby*, 506 U.S. 103, 111 (1992).

We agree with the State that Plaintiffs are not prevailing parties as that term is used in 42 U.S.C. § 1988. While Plaintiffs obtained at least some of the relief they sought in the form of an injunction barring the State from returning to the county-based or county-based, state-assisted public defense structures, that relief did not benefit Plaintiffs at the time the district court’s judgment issued. Indeed, as the district court explained, its injunction serves only as a prospective guarantee that Plaintiffs may enforce if and when the State attempts to return to either system. Until the State attempts to do so, Plaintiffs have not realized a benefit. Accordingly, Plaintiffs are not a prevailing party, and the district court did not abuse its discretion in denying their request for attorney fees under section 1988.

Plaintiffs also invoke Idaho’s private attorney general doctrine as an alternative basis for an award of attorney fees. An award of attorney fees under this doctrine is appropriate when “(1) the litigation vindicated an important or strong public policy; (2) private enforcement was necessary in order to vindicate the policy and was pursued at significant burden to the plaintiff; and (3) a significant number of people stand to benefit from the decision.” *Friends of Farm to Market v. Valley County*, 137 Idaho 192, 201, 46 P.3d 9, 18 (2002) (citing *Hellar v. Cenarrusa*, 106 Idaho 571, 577–78, 682 P.2d 524, 530–31 (1984)). Only a prevailing party may invoke the private attorney general doctrine. *Id.* “The determination of who is the prevailing party for purposes of an award of attorney fees is within the trial court’s discretion.” *Hughes v. Fisher*, 142 Idaho 474, 484, 129 P.3d 1223, 1233 (2006).

Here, the district court determined that “each party has prevailed in part,” making an award of attorney fees to either party unwise. It correctly perceived the issue before it as one appealing to its discretion and acted within the bounds of that discretion and consistent with this court’s case law in concluding that, despite their partial victories, “each party should bear its own costs and

fees.” *Israel v. Leachman*, 139 Idaho 24, 27, 72 P.3d 864, 867 (2003); *see also* I.R.C.P. 54(d)(1)(B) (providing a court may apportion an award of attorney fees based on its conclusion that both parties have prevailed in part). We find this conclusion to be a reasonable one based on the record. Accordingly, the district court did not abuse its discretion in declining to award attorney fees to Plaintiffs under the private attorney general doctrine.

IV. CONCLUSION

Based on the foregoing reasons and authorities, we affirm the district court’s amended memorandum decision and order. While the State is the prevailing party on appeal, it declined to seek attorney fees. The State is nonetheless entitled to costs as a matter of course. I.A.R. 40(a).

Justices BEVAN and MOELLER CONCUR.

MEYER, J., dissenting.

Because I view the majority as impermissibly adopting federal circuit courts’ prudential mootness doctrine, I respectfully dissent. The district court acknowledged that the issues in this case were not moot. Because they were not moot, they should not have been dismissed.

Some federal circuit courts have described mootness as having “two distinct branches.” *Chamber of Com. of U.S. of Am. v. U.S. Dep’t of Energy*, 627 F.2d 289, 291 (D.C. Cir. 1980). One branch, constitutional mootness, derives its authority from the case or controversy requirement of Article III of the U.S. Constitution and concerns whether the federal court has power to decide a case. *Id.*; *Jordan v. Sosa*, 654 F.3d 1012, 1023–24 (10 Cir. 2011). The other, adopted by a handful of circuit courts and dubbed prudential mootness, arises from a mixture of “doctrines relating to the court’s discretion in matters of remedy and judicial administration.” *Chamber*, 627 F.2d at 291 (citation omitted). It concerns not whether the court has power to grant relief, but whether it will use that power. *S. Utah Wilderness All. v. Smith*, 110 F.3d at 724, 727 (10th Cir. 1997); *Chamber*, 627 F.3d at 291. A declaration that a case is “prudentially moot” allows a “court to stay its hand” and “withhold relief it has the *power* to grant.” *S. Utah Wilderness All.*, 110 F.3d at 727 (emphasis added). Put simply, the prudential mootness doctrine allows a court to decline to decide a case even if it contains a live, active controversy.

Idaho’s law regarding mootness is more straightforward. Idaho’s constitution does not contain a case or controversy requirement, but we have recognized a mootness doctrine that resembles the constitutional mootness of federal courts. *Westover v. Idaho Cnty. Risk Mgmt.*

Program, 164 Idaho 385, 389, 430 P.3d 1284, 1288 (2018); see *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013). With no constitutional mandate, all our justiciability doctrines—including mootness—are “self-imposed constraint[s].” *Westover*, 164 Idaho at 389, 430 P.3d at 1288. Though simpler, Idaho’s mootness doctrine is robust and contains sufficient exceptions to deal with the cases that arise. *Mitchell v. Ramlow*, 174 Idaho 723, 726–731, 559 P.3d 1210, 1213–1218 (2024) (discussing when a case is considered moot and the three recognized exceptions). In my view, we do not need to adopt the prudential mootness doctrine to round out our mootness jurisprudence. It is sufficient as it is.

The majority skips to application of the prudential mootness doctrine without so much as an announcement that it is adopting it. By repeatedly calling it an exercise of “remedial discretion” or “remedial mootness” that is “a familiar exercise of equitable discretion” it quietly embraces a doctrine that is at odds with principles elucidated in the Idaho Constitution and the judicial power granted to state courts. See Idaho Const. art. I, § 18 (“Courts of justice shall be open to *every* person, and a speedy remedy afforded for *every* injury of person, property or character, and right and justice shall be administered without sale, denial, delay, or prejudice.”) (emphasis added); I.C. § 1-701 (“District courts are hereby established . . . for the purpose of hearing and determining *all* matters and causes arising under the laws of this state.”) (emphasis added). The district court expressly dismissed this case on prudential mootness grounds, and the majority is affirming on the same. Giving it a different label does not change that fact.

Similarly, the majority’s reliance on *O’Boskey v. First Federal Savings & Loan Association of Boise*, 112 Idaho 1002, 739 P.2d 301 (1987), as the basis for this doctrine is misplaced. While it is true that the plaintiffs in *O’Boskey* sought a permanent injunction and to have their action certified as a class action, as the plaintiffs did here, *O’Boskey* did not involve the court *declining* to exercise its power to order the injunction. *Id.* at 1003–1008, 739 P.2d at 302–307. Instead, the district court in *O’Boskey* “remained unconvinced” that the defendant’s voluntary cessation of conduct “eliminated any reasonable expectation of repetition of the wrong” and ordered the injunction. *Id.* at 1007–08, 739 P.2d at 306–07. The district court did not decline to reach the merits; it exercised its power to decide the matter, and this Court affirmed, concluding there was not an abuse of discretion. *Id.* *O’Boskey* involved skepticism of the claim, that there was “no reasonable expectation that the wrong will be repeated.” *Id.* at 1007, 739 at 306 (internal quotations omitted). *O’Boskey* does not mention prudential mootness, nor does it stand for this federal doctrine. Rather,

it strengthens the notion that district courts have a duty to “beware of efforts to defeat injunctive relief by protestations of repentance and reform” and that “the power of the district court ‘to grant injunctive relief survives discontinuance of the illegal conduct.’” *Id.* at 1007 (quoting *W.T. Grant*, 345 U.S. at 633).

The majority’s subtle adoption of prudential mootness in this case mirrors its growth in some federal circuits. The doctrine has evolved as an unsuspecting offshoot from a U.S. Supreme Court case, *U.S. v. W.T. Grant*, 345 U.S. 629 (1953), that never mentioned prudential mootness by name. The mootness discussed in *W.T. Grant* was constitutional mootness, and the Court determined that while the case was not constitutionally moot, the trial court nonetheless did not abuse its discretion in declining to award injunctive relief. *W.T. Grant*, 345 U.S. at 632. *W.T. Grant* is more about deference to the trial court’s conclusions and defense of the power of the courts to enjoin behavior even after the behavior is voluntarily ceased than about the announcement of a new mootness doctrine. *Id.* at 632–35. From there, prudential mootness has grown slowly, with little fanfare, and is often treated—as it is in the majority opinion today—as if it has always existed and is not a new doctrine to be adopted.

For example, in *Chamber*, 627 F.2d at 291, the D.C. Circuit stated that the “distinction between mootness proper and its remedial counterpart has been long recognized and clearly articulated” but cited only two cases as direct support, *W.T. Grant* and *U.S. v. Concentrated Phosphate Export Ass’n*, 393 U.S. 199, 203–04 (1968). *W.T. Grant* did not “clearly articulate” the contours of a doctrine it did not even announce that it was adopting. Similarly, in *Concentrated Phosphate*, constitutional mootness was again discussed, with a quote from *W.T. Grant* that “mere voluntary cessation of allegedly illegal conduct does not moot a case,” but then the Court went on to decide that the “case [was] not technically moot . . . and we have no choice but to decide it.” 393 U.S. at 204. *Concentrated Phosphate* also did not “clearly articulate” the doctrine of prudential mootness and it does not stand for prudential mootness principles in the sense that it allows courts *not* to exercise their power to decide a case. *See Id.* at 203–04. The D.C. Circuit did also point to *M.L. Mechling Barge Lines, Inc. v. United States*, 368 U.S. 324 (1961), as supporting the adoption of prudential mootness, but that case does not provide clear support either. *See Chamber*, 627 F.2d at 292. *Mechling Barge* concerned an Interstate Commerce Commission order that allowed railroads to transport grain from Northern Illinois at a lower tariff rate than if transported by water from Chicago. *Mechling Barge*, 368 U.S. at 325–27. When barge companies sued, the railroad

withdrew their application for the order, and the district court determined that the issue was moot. *Id.* at 328. On review, the Supreme Court, concerned that the proceedings surrounding the issuance of the order were not legally proper, remanded to the Commission with instructions to vacate and set aside the order. *Id.* at 331. In doing so, the Supreme Court did not announce a new mootness doctrine. It did not even vacate the district court’s dismissal. *Id.* The dismissal was “modified” to remand the proceedings to the Commission and vacate the order, but the dismissal remained in place. *Id.* Two sentences mentioning judicial discretion in that case did not amount to the announcement or adoption of prudential mootness as a new legal doctrine, particularly since the Court utilized traditional mootness analysis and did not reverse the district court’s dismissal. *Id.*

But since then, prudential mootness has subtly grown into a tangled vine as a few federal circuit courts have fashioned it, over time, as a way to decline to reach the merits of a case. *See e.g. Chamber*, 627 F.2d at 291; *State of N.M. ex rel. N. M. State Highway Dep’t v. Goldschmidt*, 629 F.2d 665, 669 (10th Cir. 1980); *Kennedy v. Block*, 784 F.2d 1220, 1222 n.1 (4th Cir. 1986); *Fletcher v. U.S.*, 116 F.3d 1315, 1321–22 (10th Cir. 1997); *Jordan*, 654 F.3d at 1023–34; *Winzler v. Toyota Motor Sales U.S.A., Inc.*, 681 F.3d 1208, 1209–11 (10 Cir. 2012); *United States v. Sastrom*, 96 F.4th 33 (1st Cir. 2024). Creation of a new way *not* to decide cases on the merits may make sense for federal courts—as they are courts of limited jurisdiction¹—but the same logic does not support adopting this doctrine for use in Idaho state courts, which are courts of general jurisdiction. I.C. § 1-701; *McCormick v. Smith*, 23 Idaho 487, 489, 130 P. 999, 1001 (1913).

Further, the prudential mootness doctrine, although claimed to have begun as early as 1953 in *W.T. Grant*, does not enjoy universal acceptance in the federal circuit courts, nor have more than a handful of state high courts adopted it. Cooper C. Millhouse, *Imprudent Mootness: Why Federal Appellate Courts Should Abandon the Doctrine of Prudential Mootness*, 84 Md. L. Rev. Online 96, 99 (2025) (stating that only “select circuit courts” have decided cases on prudential mootness grounds, and only six of thirteen federal circuit courts have formally adopted the doctrine.) The doctrine is most well-developed in the Tenth Circuit. *See, e.g., S. Utah Wilderness All.*, 110 F.3d at 727; *Jordan*, 654 F.3d at 1019; *Winzler*, 681 F.3d at 1215; *Bacote v. Federal Bureau of Prisons*, 119 F.4th 808, 812 (10th Cir. 2024). And the D.C. Circuit was an early adopter. *See Chambers*, 627 F.2d at 291. The First, Third, and Fourth Circuits have recognized it with little discussion, although sometimes with confusion about the contours. *See FDIC v. Kooyomjian*, 220 F.3d 10, 14–

¹ *See, e.g., Gunn v. Minton*, 568 U.S. 251, 256 (2013).

15 (1st Cir. 2000) (discusses “prudential mootness,” but discussion is very similar to “equitable mootness” in the bankruptcy context, which is a bankruptcy-specific doctrine); *Int’l Bhd. of Boilermakers v. Kelly*, 815 F.2d 912, 914–17 (3d Cir. 1987) (exercising “prudential mootness” to reverse and remand a dismissal rather than to affirm); *Sierra Club v. U.S. Army Corps of Eng’rs*, 277 F. App’x 170, 172–73 (3d Cir. 2008); *S-1 v. Spangler*, 832 F.2d 294, 297–99 (4th Cir. 1987). In the Sixth Circuit, the doctrine was adopted with limited discussion, *Greenbaum v. E.P.A.*, 370 F.3d 527, 534–35 (6th Cir. 2004), and in the Eighth Circuit in *Ali v. Cangemi*, 419 F.3d 722, 723–24 (8th Cir. 2005). The Fifth Circuit noted the existence of prudential mootness in “sister circuits,” but has not formally adopted or applied it. *League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421, 432 n.15 (5th Cir. 2011).² Similarly, the Eleventh Circuit also recently noted that other circuits had adopted prudential mootness, but declined to apply it, calling it a “rarely invoked doctrine.” *Baker v. City of Atlanta*, 164 F.4th 850, 860 n.6 (11th Cir. 2026). The Seventh Circuit has declared that “in close cases, mootness can be in part a prudential doctrine,” but does not adopt it as a freestanding doctrine. *Equal Emp. Opportunity Comm’n v. Flambeau, Inc.*, 846 F.3d 941, 950 (7th Cir. 2017). The Ninth Circuit declined to adopt it, noting “a federal court’s ‘virtually unflagging’ obligation to ‘hear and decide cases within its jurisdiction.’” *Meland v. WEBER*, 2 F.4th 838, 848 n.5 (9th Cir. 2021) (quoting *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 126 (2014)). Thus, the contours of the prudential mootness doctrine are not well defined, nor is it well-settled among circuit courts.

The doctrine’s use in state courts is even more rare. Many state courts, who often lack a “case or controversy” requirement in their state constitutions, instead discuss their mootness jurisprudence entirely in the context of prudence and prudential concerns. *Comm. to Elect Dan Forest v. Emps. Pol. Action Comm.*, 853 S.E.2d 698, 725 n.39 (N.C. 2021) (noting that it had recognized mootness as “a matter of prudential self-restraint.”). This does not usually mean that they adopt the federal “prudential mootness” doctrine, but only that their justiciability doctrines do not have a state constitutional basis. *See, e.g., In re Peoples*, 250 S.E.2d 890, 912 (N.C. 1978) (citing cases from Illinois, Ohio, and South Carolina); *Couey v. Atkins*, 355 P.3d 866, 873–74 (Ore. 2015); *Reyes v. Prince George’s County*, 380 A.2d 12, 19–20 (Md. 1977).

² Confusingly, the Fifth Circuit has embraced equitable mootness in the bankruptcy context, but has called the use of equitable mootness “prudential.” *See In re Blast Energy Services, Inc.*, 593 F.3d 418, 424 (5th Cir. 2010).

Mootness jurisprudence in Idaho was sufficient as it stood before today. It was adequate to address whether issues in a case had been resolved, or whether an exception to dismissal on mootness grounds applied. If a case is moot, it must be dismissed, unless an exception to mootness applies. If it is not moot, the plaintiff should have the opportunity to prove its causes of action. The adoption of the prudential mootness doctrine empowers a court to decline to decide a case before it that contains an active controversy. Is that truly the direction we want to go? I disagree with the movement today's decision makes in that direction. I would hold that the district court erred in relying on prudential mootness as the basis for dismissal here.

This is not the first time this Court has discussed the effect of legislative change on ongoing litigation. A similar issue was addressed in *Idaho Schools for Equal Educational Opportunity v. State* (“*ISEEO V*”), 142 Idaho 450, 453, 129 P.3d 1199, 1202 (2005). In *ISEEO V*, the State argued that subsequent legislation and remedial measures addressing unsafe school facilities rendered many of the district court's findings moot. *Id.* at 457, 129 P.3d at 1206. The Court acknowledged and commended the legislature's steps, such as creating a loan and grant fund, enacting the Uniform Public School Building Safety Act, and extending levy repayment terms. *Id.* However, the Court held “[s]uch legislation does not, however, make this case moot[,]” because the record was devoid of any continuing commitment to funding, “or that the amount appropriated was sufficient to carry out the [l]egislature's constitutional responsibilities.” *Id.* Finally, the Court noted that even if the claims in *ISEEO V* were “technically” moot, the public interest exception to the mootness doctrine would apply because the “thoroughness” of public education was a matter of great public importance. *Id.* at 458, 129 P.3d at 1207.

Similarly, here the State points to the SPDA's legislative overhaul of Idaho's indigent defense system as grounds for dismissal. But like the subsequent legislation in *ISEEO V*, the SPDA is new, and it is uncertain whether the funding appropriated is sufficient to carry out the State's constitutional responsibilities or whether the legislature will cut back on funding. Likewise, while legislative action may indicate an intent to address the alleged constitutional inadequacies, whether the SPDA resolves those inadequacies remains uncertain. And, like the constitutional issue in *ISEEO V*, the constitutional right at issue here—the right to meaningful representation for indigent defendants—implicates a substantial public interest.

Moreover, although the State has overhauled its public defense system through the SPDA, there remains a constitutional provision requiring the State to provide constitutionally adequate

representation to indigent criminal defendants. Therefore, the enactment of the SPDA does not render this action moot, as the district court recognized, and the State's efforts, while laudable, have not yet been proven to resolve the serious deficiencies identified by appellants in the public defense system.

The appellants' claims remain live and appropriate for adjudication, and their resolution likely requires a trial to facilitate fact-finding and credibility determinations in light of the competing declarations and expert opinions presented. Accordingly, I would reverse the district court's order, in part, and remand this case for further proceedings. It may be that after a trial on the merits, the district court finds, based on the evidence, that appellants are not entitled to injunctive relief, that the State has sufficiently remedied the shortcomings inherent in the county-based, state-assisted systems. But at this point, using a doctrine of remedial or prudential mootness, that we have not recognized, to dismiss a case based on assurances of something different, results in closing the doors to courts of justice prematurely.

BURDICK, J. Pro Tem, CONCURS.