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Long-running Class Action Over Idaho's Public Defense Crisis Heads to Idaho Supreme Court for Third Time

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BOISE – The American Civil Liberties Union of Idaho lawsuit challenging the constitutional adequacy of Idaho's provision of public defense is headed to the Idaho Supreme Court for the third time since 2016. The lawsuit, known as *Tucker v. State of Idaho*, was originally filed in 2015 by the ACLU of Idaho, Hogan Lovells, and the National ACLU.

Earlier this month, an Idaho district judge ruled that Idaho cannot revive its existing public defense system, which relies on individual counties (with state assistance) to provide criminal defense attorneys for the many Idahoans who cannot afford an attorney. Despite the district judge's "[serious concerns](#)" over the constitutional adequacy of the current services, the judge dismissed the case and did not order relief to fix the chronic failures. Rather than providing much-needed relief, the judge chose to await the development of a newly enacted structure for public defense in Idaho, noting that "time will tell if the State will live up to the promises made or if those are mere empty promises."

The ACLU of Idaho has appealed that decision, stating that despite the state's future promises, indigent people continue to be denied access to constitutional public defense and, after nearly 10 years, need the Idaho courts to remedy that deficiency now.

The case was originally brought against the state on behalf of the tens of thousands of Idahoans who cannot afford the full cost of criminal defense lawyers and the other costs necessary to defend against criminal charges. The lawsuit documents a range of severe deficiencies in Idaho's under-resourced approach to public defense that violate the Sixth Amendment and state constitutional rights to an attorney. The ACLU of Idaho, in partnership with the National ACLU and global law firm Hogan Lovells, explains in the lawsuit that Idaho's public defenders are so severely overburdened that they cannot

possibly adequately represent all of their clients, resulting in criminal defendants not getting a fair chance to defend themselves.

“The ACLU of Idaho is appealing this case because the need to address Idaho’s disastrous approach to indigent defense is urgent,” said **Paul Carlos Southwick, ACLU of Idaho Legal Director**. “In short, Idahoans have a right to adequate representation in Idaho’s court systems, and right now, Idaho cannot come close to guaranteeing that, and that is unacceptable.”

“The ACLU of Idaho continues to receive complaints about Idaho’s public defense crisis,” said **Leo Morales, ACLU of Idaho Executive Director**. “This class action lawsuit details years of data showing that public defense suffers from widespread, persistent structural deficiencies that undermine Idahoans’ constitutional right to counsel. We have been demanding this wrong be righted in this case for a very long time, and we will not stop pursuing justice until this constitutional right is protected.”

In April 2023, the legislature enacted the State Public Defender Act, which rearranges Idaho’s public defense services so that they will be operated by an Office of the State Public Defender rather than overseen by a State Public Defense Commission. Both leading public defenders and the ACLU of Idaho opposed many of the changes on the ground that they both failed to remedy existing issues and made some problems worse.

“While the court’s ruling stated that ‘time will tell’ if these recent changes will remedy longstanding deficiencies as they are implemented, wishful thinking will not secure our clients’ constitutional rights,” Southwick said.

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*The **ACLU of Idaho** is a non-partisan, non-profit organization dedicated to the preservation and enhancement of civil liberties and civil rights. The ACLU of Idaho strives to advance civil liberties and civil rights through activities that include litigation, education, and lobbying. Learn more at acluidaho.org.*