

SUPREME COURT OF OKLAHOMA

Ford, et al. v. The Oklahoma State Department of Education, et al.

Ford, 2026 OK 35 (Okla. 2026) · No. 123278 · Decided May 12, 2026

SUMMARY

The Oklahoma Supreme Court held that plaintiffs' challenge to the Oklahoma Social Studies Standards of 2025 was moot because the standards no longer existed. The Court found that no exception to mootness applied, dismissed the appeal, and reversed the district court's judgment with directions to enter a dismissal without prejudice. Several justices concurred, while Justices Kane and Jett dissented in part from the decision to vacate the lower court ruling.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Edmondson, J.; Rowe, C.J.; Kuehn, V.C.J.; Winchester, J.; Combs, J.; Gurich, J.; Darby, J.
JURISDICTION	Supreme Court of Oklahoma
DECIDED	May 12, 2026
DOCKET	123278
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from a district court judgment denying their request for an injunction and granting defendants' motions to dismiss. The Oklahoma Supreme Court retained the appeal and dismissed it as moot, while reversing the district court's judgment with directions to enter a dismissal without prejudice.
STANDARD OF REVIEW	The court reviewed the justiciability and mootness of the appeal and the propriety of the district court's dismissal. Mootness is a jurisdictional and justiciability issue requiring dismissal when the controversy no longer exists and no exception applies.
PRECEDENTIAL VALUE	Published opinion, but the source states that it has not been released for publication and remains subject to revision or withdrawal.
PARTIES	Diane Ford, Ainsley Hoover, Lillian Lang, Jack Ramey, Jennie Scott, James Welch, IV, Alana Westfall v. The Oklahoma State Department of Education, The Oklahoma State Board of Education, Lindel Fields, in

his official capacity as State Superintendent of Public Instruction and
Chair of the Oklahoma State Board of Education

TOPICS

mootness appellate procedure administrative law declaratory judgment injunctions

PRACTICE AREAS

Appellate procedure Administrative law Civil procedure Equitable remedies

QUESTIONS PRESENTED

1. Whether plaintiffs' appeal challenging the 2025 Social Studies Standards and seeking declaratory and injunctive relief became moot because the standards no longer existed.
2. Whether an exception to mootness applied based on the potential repetition of the controversy while evading review.
3. Whether the public-interest exception to mootness applied.
4. Whether the district court's judgment should be reversed and the petition dismissed without prejudice after the appeal became moot.

HOLDINGS

1. The appeal was moot because the challenged 2025 Social Studies Standards no longer existed, leaving no effective injunctive or declaratory relief for the court to grant.
2. Neither the exception for issues capable of repetition while evading review nor the substantial-public-interest exception applied.
3. The district court judgment was reversed, and the district court was directed to enter a new judgment dismissing plaintiffs' petition as moot without prejudice.

KEY QUOTATIONS

"We conclude plaintiffs' action challenging the Social Studies Standards of 2025 and requesting injunctive and declaratory relief is moot because the 2025 Social Studies Standards no longer exist." (§1)

"Munsingwear explained an appellate court may dismiss a moot appeal and vacate a judgment with directions to dismiss the trial court action without prejudice upon remand because it "clears the path for future litigation of issues between the parties and eliminates a judgment, review of which was prevented through happenstance."" (§24)

"We conclude plaintiffs' action challenging the Social Studies Standards of 2025 and requesting injunctive and declaratory relief is moot because the Social Studies Standards no longer exist." (§30)

FACTUAL BACKGROUND

The Oklahoma State Board of Education approved the Social Studies Standards of 2025 on February 27, 2025. Plaintiffs challenged those standards, alleging statutory and constitutional violations and seeking declaratory and injunctive relief. During the appeal, the standards no longer existed after *Randall v. Fields* held that they could not be enforced.

PROCEDURAL HISTORY

Plaintiffs challenged Oklahoma's 2025 Social Studies Standards and sought declaratory and injunctive relief in the District Court for Oklahoma County. The district court denied injunctive relief and granted defendants' motions to dismiss. While the appeal was pending, the 2025 Standards ceased to exist following *Randall v. Fields*, and the Supreme Court concluded that no effective relief or mootness exception remained available.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court for Oklahoma County must enter a new judgment dismissing plaintiffs' petition as moot and without prejudice.

CASES CITED

- *Randall v. Fields*, 2025 OK 91, 581 P.3d 109
- *State ex rel. Oklahoma Firefighters Pension and Retirement System v. City of Spencer*, 2009 OK 73, 237 P.3d 125
- *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 133 S. Ct. 721, 184 L. Ed. 2d 553 (2013)
- *Federal Bureau of Investigation v. Fikre*, 601 U.S. 234, 144 S. Ct. 771, 218 L. Ed. 2d 162 (2024)
- *Colorado River Water Conservation District v. United States*, 424 U.S. 800, 817, 96 S. Ct. 1236, 47 L. Ed. 2d 483 (1976)
- *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 189, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000)
- *United States v. W. T. Grant Co.*, 345 U.S. 629, 632-633, 73 S. Ct. 894, 97 L. Ed. 1303 (1953)
- *Oklahoma Electric Cooperative v. State ex rel. Oklahoma Corporation Commission*, 2025 OK 60, 578 P.3d 1201
- *Truttman v. City of McAlester*, 1952 OK 149, 243 P.2d 355
- *Wells v. Childers*, 1945 OK 365, 165 P.2d 371
- *Mitchell v. Wall*, 808 F.3d 1174 (7th Cir. 2015)
- *Gjertsen v. Board of Election Commissioners*, 751 F.2d 199 (7th Cir. 1984)
- *United States v. Munsingwear, Inc.*, 340 U.S. 36, 71 S. Ct. 104, 95 L. Ed. 36 (1950)
- *Saxon v. Macy*, 1990 OK 60, 795 P.2d 101
- *Grisham v. City of Oklahoma City*, 2017 OK 69, 404 P.3d 843

- House of Realty, Inc. v. City of Midwest City, 2004 OK 97, 109 P.3d 314
- Tulsa Industrial Authority v. City of Tulsa, 2011 OK 57, 270 P.3d 113
- City of Broken Arrow v. Bass Pro Outdoor World, L.L.C., 2011 OK 1, 250 P.3d 305
- Dutton v. City of Midwest City, 2015 OK 51, 353 P.3d 532
- Grider v. USX Corp., 1993 OK 13, 847 P.2d 779
- Federal Bureau of Investigation v. Fikre, 601 U.S. 234 (2024)
- Ramirez v. Collier, 595 U.S. 411, 434, 142 S. Ct. 1264, 212 L. Ed. 2d 262 (2022)
- Lawrence v. Cleveland County Home Loan Authority, 1981 OK 28, 626 P.2d 314
- Childers v. Wallace, 1946 OK 162, 169 P.2d 186
- Pike Off OTA, Inc. v. Oklahoma Turnpike Authority, 2023 OK 57, 531 P.3d 107
- Morrison v. Board of Education of Independent School District No. 6, 1967 OK 36, 424 P.2d 963

OPINION

PER CURIAM.

OSCN Found Document:FORD, et al. v. THE OKLAHOMA STATE DEPARTMENT OF EDUCATION, et al. FORD, et al. v. THE OKLAHOMA STATE DEPARTMENT OF EDUCATION, et al. 2026 OK 35 Case Number: 123278 Decided: 05/12/2026 THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2026 OK 35, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

DIANE FORD, AINSLEY HOOVER, LILLIAN LANG, JACK RAMEY, JENNIE SCOTT, JAMES WELCH, IV, and ALANA WESTFALL, Plaintiffs/Appellants, v. THE OKLAHOMA STATE DEPARTMENT OF EDUCATION, THE OKLAHOMA STATE BOARD OF EDUCATION, and LINDEL FIELDS, in his official capacity as the State Superintendent of Public Instruction and Chair of the Oklahoma State Board of Education, Defendants/Appellees.

APPEAL FROM THE DISTRICT COURT FOR OKLAHOMA COUNTY ¶10 Plaintiffs filed suit in the District Court and sought an injunction and declaratory relief based upon the Social Studies Standards of 2025 adopted by the Oklahoma State Board of Education.

The State Superintendent of Public Instruction, Oklahoma State Department of Education, and Oklahoma State Board of Education filed motions to dismiss plaintiffs' petition. The Honorable C. Brent Dishman, District Judge, denied the request for an injunction and granted the motions to dismiss. Plaintiffs appealed and the appeal was retained for disposition by this Court.

We hold: (1) Plaintiffs' appeal is moot and no exception to mootness applies; (2) The appeal is dismissed; (3) The judgment dismissing plaintiffs' petition is reversed with directions to enter judgment dismissing plaintiffs' petition without prejudice due to mootness. APPEAL

DISMISSED; DISTRICT COURT JUDGMENT REVERSED WITH DIRECTIONS Michael J. Hunter, Michael J. Hunter PLLC, Oklahoma City, Oklahoma, for Plaintiffs/Appellants.

Lindsey N. Kistler, Kistler Legal Group, Oklahoma City, Oklahoma, for Plaintiffs/Appellants. Ryan Leonard, Elaine DeGiusti, Heidi Long, and Heather Hendricks, Leonard, Long & Cassil, PLLC, Oklahoma City, Oklahoma, for Appellee, Oklahoma State Board of Education. EDMONDSON, J. ¶1 We conclude plaintiffs' action challenging the Social Studies Standards of 2025 and requesting injunctive and declaratory relief is moot because the 2025 Social Studies Standards no longer exist.

The appeal must be dismissed as moot. The two exceptions to mootness do not apply. We conclude the judgment against plaintiffs must be reversed, and a new judgment entered that dismisses plaintiffs' petition without prejudice due to mootness. ¶2 The Oklahoma State Board of Education (OSBE) approved the Social Studies Standards of 2025 on February 27, 2025. Plaintiffs filed a petition in the District Court and sought a declaratory judgment that the 2025 Social Studies Standards (2025 Standards) were "invalid, null, and void as a matter of law, and for any such other and further relief that this Court deems just and proper." ¶3 A motion to dismiss was filed by Ryan Walters and the Oklahoma State Department of Education (OSDE).

12 O.S. §2012 Randall v. Fields, 2025 OK 91 581 P.3d 109 ¶4 Plaintiffs appealed and their petition in error challenged the orders denying an injunction and dismissing their petition. 75 O.S. §§ 250.4 70 O.S. §§11-103.6a ¶5 This Court addressed the validity of the Social Studies Standards of 2025 in Randall v. Fields, supra, where the Court concluded: "The 2025 Oklahoma Academic Standards for Social Studies shall not be enforced."

Id. 2025 OK 91 Randall raised various constitutional and statutory claims challenging the 2025 Standards that the Court did not adjudicate. Randall, at ¶22, 581 P.3d at 118. The Court's holding in Randall was based solely upon application of the Oklahoma Open Meeting Act, 25 O.S.2021 §§301 Id. 2025 OK 91 Randall v. Fields, supra, upon the present appeal. ¶6 Plaintiffs argue: (1) The challenged 2025 Standards present a legal issue capable of repetition in future litigation related to (a) 75 O.S. §§ 250.4 70 O.S. §11-103.6a Randall shows the trial court's order was incorrect requiring a reversal of the trial court; and (4) Alternatively, and to the extent Randall renders moot plaintiffs' request for a preliminary injunction and declaratory relief, plaintiffs' action remains viable due to exceptions to mootness.

Plaintiffs argue the Court should retain the appellate cause and address the issues raised regarding the trial court's order sustaining the defendants' motions to dismiss. ¶7 Defendants state the decision in Randall moots plaintiffs' action and no exception to the mootness doctrine applies.

The appeal is dismissed for mootness based upon the Court's analysis. II. Analysis ¶8 Plaintiffs' argument is essentially twofold: (1) The controversy is not moot and the Court should apply

Randall as stare decisis, reverse the District Court's dismissal of their petition, and remand for additional proceedings in the District Court; or (2) The controversy is an exception to the mootness doctrine.

Plaintiffs' first argument for reversing the District Court's dismissal of their petition requests a form of appellate relief based upon either (a) viewing the decision in Randall as not establishing a new rule of law and merely announcing law as it has always been and should be applied to their controversy by reason of stare decisis, or (b) viewing the decision in Randall as announcing new law but requiring application of the pipeline doctrine to different parties in a different appeal. ¶9 Stare decisis, by itself, does not create mootness.

State ex rel. Okla. Firefighters Pension and Retirement System v. City of Spencer, 2009 OK 73 237 P.3d 125 Id. ¶4, 237 P.3d at 129. A state or condition which prevents an appellate court from rendering relief for the purpose of mootness may include when the controversy is no longer justiciable because the cause of action no longer exists, e.g., a cause of action consists of an antagonistic demand and when this demand is no longer present the appeal is moot. ¶10 In *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 133 S.Ct.

721, 184 L.Ed.2d 553 (2013), the Court explained a federal court case becomes moot when the case is "no longer a 'Case' or 'Controversy' for the purposes of Article III" of the U.S. Constitution. Id. 568 U.S. at 91.

In *Federal Bureau of Investigation v. Fikre*, 601 U.S. 234, 240-41, 144 S.Ct. 771, 218 L.Ed.2d 162 (2024), the Court explained mootness and an exception to its application. A court with jurisdiction has a "virtually unflagging obligation" to hear and resolve questions properly before it. *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817, 96 S.Ct.

1236, 47 L.Ed.2d 483 (1976). But the converse also holds true. Sometimes, events in the world overtake those in the courtroom, and a complaining party manages to secure outside of litigation all the relief he might have won in it. When that happens, a federal court must dismiss the case as moot. *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91, 133 S.Ct. 721, 184 L.Ed.2d 553 (2013)....

None of this implies that a defendant may "automatically moot a case" by the simple expedient of suspending its challenged conduct after it is sued. *Already*, 568 U.S., at 91, 133 S.Ct. 721. Instead, our precedents hold, a defendant's "'voluntary cessation of a challenged practice' " will moot a case only if the defendant can show that the practice cannot " 'reasonably be expected to recur.' " *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 189, 120 S.Ct.

693, 145 L.Ed.2d 610 (2000); see *United States v. W. T. Grant Co.*, 345 U.S. 629, 632--633, 73 S.Ct. 894, 97 L.Ed. 1303 (1953). Federal courts often see motions to dismiss where Fed. R. Civ. P.,

Rule 12 (b)(1) (lack of subject matter jurisdiction) and Rule 12(b)(6) (failure to state a claim upon which relief can be granted) are raised simultaneously and each invokes a mootness argument.

An adjudication of a 12(b)(1) jurisdictional defense may moot a 12(b)(6) defense and a dismissal for 12(b)(1) mootness, that is, dismissal due to absence of an Art. III case or controversy is often a result with the Rule 12(b)(6) argument mooted. ¶11 Our Court has noted a similarity between (1) the "Case" or "Controversy" requirement in U. S. Const. Art. III and (2) the power vested in District Courts by Okla. Const.

Art. VII, § 7, ¶12 Our Court recognized an appellate court may decline to dismiss an appeal as moot when a controversy presents one of two exceptions. In *Oklahoma Electric Cooperative v. State ex rel. Oklahoma Corporation Commission*, 2025 OK 60 578 P.3d 1201 Id. at ¶20. *State ex rel. Okla. Firefighters Pension and Retirement System*, *supra*, and *Oklahoma Electric Cooperative*, *supra*, indicate mootness during an appeal may be based upon a lack of justiciability and an appellate dismissal is not always required. ¶13 The effect of this Court's exceptions to mootness is similar to the well-known concept that when jurisdiction attaches over a person by a court of general original jurisdiction exercising equity, then the equity jurisdiction will continue apart from the parties' rights on a legal cause of action in a law court.

Federal Bureau of Investigation, *supra*, and its single exception to mootness and dismissal based upon repetition of the controversy while evading judicial review due to the conduct of the parties. ¶14 Plaintiffs challenged the 2025 Standards and sought an injunction to prevent their enforcement. These 2025 Standards no longer exist. *Randall v. Fields*, *supra*.

A request for an injunction to prevent an act will become moot if the act is no longer threatened. *Truttman v. City of McAlester*, 1952 OK 149 243 P.2d 355 ¶15 Relief in the nature of an injunction is authorized by statutes such as 12 O.S. §1381 12 O.S. §1451 remedy for the cause of action adjudicated. *Wells v. Childers*, 1945 OK 365 165 P.2d 371 Id. at ¶10, 165 P.2d at 371.

Id. ¶16 Generally, different theories of liability may be pressed in support of each cause of action, but a single cause of action is ordinarily predicated upon one occurrence, one transaction, or a single wrong. ¶17 Plaintiffs' petition alleged 75 O.S. §306 ¶18 Plaintiffs' petition in error assigns seven errors.

The first two relate to the jurisdiction of a District Court based upon the Administrative Procedure Act and review of the 2025 Standards. The third relates to the process used by the Oklahoma Department of Education and the State Board of Education and whether the process violated plaintiffs' rights.

The fourth relates to the 2025 Standards and plaintiffs' alleged rights to be free from certain types of speech. The fifth relates to plaintiffs' desire to amend their trial court petition. The sixth relates to whether the implementation of the 2025 Standards was a "non-justiciable political question."

The seventh relates to the trial court's denial of an injunction. ¶19 Plaintiffs' cause of action is based upon the alleged wrongfulness of the 2025 Standards allegedly harming plaintiffs' rights. Those standards no longer exist. Plaintiffs' request for an injunction to prevent enforcement of the 2025 Standards is moot. *Truttman*, supra. Plaintiffs alleged that declaratory relief pursuant to the Administrative Procedures Act should be available for the purpose of reviewing the 2025 Standards.

This allegation is moot because the 2025 Standards to be reviewed by this method no longer exist, i.e., the alleged wrong does not exist, and the alleged and requested remedy by declaratory relief would not be proper to address a hypothetical issue. ¶20 Plaintiffs allege as procedural error the trial court's dismissal without opportunity to amend their petition concerning the 2025 Standards.

In *Oklahoma*, a 12 O.S. §2012 ¶21 A part of a mootness inquiry examines whether any legally cognizable collateral consequences to plaintiffs remain after the *Randall* decision. *Randall*. ¶22 An order of this Court in *Randall* stayed implementation of the 2025 Standards. This stay was not dissolved until simultaneous holding that the Standards were not enforceable.

Randall, 2025 OK 91 tare decisis, or a court adhering to its former precedent, *stare decisis* is not an "inexorable command" for a court to apply the precedent of its own decisions, a court usually does not reject its own decisions unless a change has occurred in the circumstances, applicable law, public policy, or the nature of the controversy requires additional analysis.

Randall's *stare decisis* to plaintiffs in the future. ¶23 Plaintiffs' cause of action in District Court challenged the same 2025 Standards as those in *Randall*, but plaintiffs raised issues of law not addressed by *Randall*; and these additional issues were adjudicated as a failure in plaintiffs' pleading by the District Court judgment adjudicating motions to dismiss relying upon 12 O.S. §2012 12 O.S. §2012 *stare decisis* from an intervening opinion of this Court moots a legal issue, but not the cause of action; then the Court may reverse the trial court's judgment of dismissal and remand for plaintiff to seek judicial relief on the alleged cause of action not mooted. ¶24 Federal courts have addressed mootness on appeal and whether an appellate remand should include direction to vacate a trial court's judgment.

In *Mitchell v. Wall*, 808 F.3d 1174 (7th Cir. 2015) the court explained the following. When a case becomes moot on appeal (supposing the present case, so far as it concerns the probation-officer defendants, hadn't become moot already in the district court), the court of appeals generally vacates the judgment of the district court and remands with instructions to dismiss the case.

It does this in order to prevent the district court's unreviewed decision from having a preclusive effect in subsequent litigation between the parties. *Id.* 808 F.3d at 1176. *Mitchell* discussed the concept of an estoppel created by a judgment with a subsequent dismissed moot appeal, and relied upon *Gjertsen v. Board of Election Commissioners*, 751 F.2d 199 (7th Cir.1984), which in turn

relied upon procedure for federal courts described in *United States v. Munsingwear, Inc.*, 340 U.S. 36, 71 S.Ct.

104, 95 L.Ed. 36 (1950). *Munsingwear* explained an appellate court may dismiss a moot appeal and vacate a judgment with directions to dismiss the trial court action without prejudice upon remand because it "clears the path for future litigation of issues between the parties and eliminates a judgment, review of which was prevented through happenstance." *Munsingwear*, 340 U.S. at 40.

Gjertsen also explained that the "Supreme Court held that since the requirement of vacating the lower-court order when it becomes moot on appeal is for the benefit of the loser in the lower court, he can waive it, and does so by failing to invoke it." Gjertsen, 751 F.2d at 203 (citing *United States v. Munsingwear*, 340 U.S. at 40-41). ¶25 We are not required to follow holdings in these federal opinions; 12 O.S. §952 12 O.S. §952 ¶26 A potential for future litigation authorizing vacation of a judgment upon dismissal of an appeal is not identical with the mootness exception based upon a potential for future litigation while evading review.

One court concluding mootness did not apply observed that the issue "in this case does not have an inherent problem of limited duration that will cause it to evade review in future litigation." ¶27 Plaintiffs argue they possess a right to District Court judicial review of administrative proceedings and whether such a right exists presents a public interest exception to mootness.

Plaintiffs argue a new issue is whether specific education statutes in Title 70, Oklahoma Statutes, alter 75 O.S. §306 publici juris for the purpose of assuming original jurisdiction, 75 O.S. §306 ¶28 One court has held that the substantial public interest exception to mootness of an issue is present "particularly where final determination of the issue is essential in guiding the conduct of public officials."

Randall, that is, the scope of a District Court procedure, would not result in a judicial determination that would directly alter conduct of education officials when they create academic standards. ¶29 In addition to analyzing whether the conduct of public officials will be guided by a judicial decision, a court may review whether a "question of great public importance" is present by determining "if the controversy concerns 'mature seeds' of an actual, present and existing dispute, 'as distinguished from a possible dormant, hypothetical, speculative, or moot disagreement.'" 75 O.S. §306 70 O.S.2011 §11-103.6a 75 O.S. §306 III.

Conclusion ¶30 We conclude plaintiffs' action challenging the Social Studies Standards of 2025 and requesting injunctive and declaratory relief is moot because the Social Studies Standards no longer exist. *Randall v. Fields*, supra.

The appeal must be dismissed. *Truttman v. City of McAlester*, supra, *Saxon v. Macy*, supra. Two exceptions to mootness to the controversy and the appeal do not apply. *Oklahoma Electric Cooperative v. State ex rel. Oklahoma Corporation Commission*, supra. ¶31 We conclude the

judgment against plaintiffs must be reversed, and a new judgment entered that dismisses plaintiffs' petition without prejudice due to the mootness of the controversy.

12 O.S. §952 Morrison v. Board of Education of Ind. Sch. Dist. No. 6, supra; Saxon v. Macy, supra; and Randall v. Fields, supra. The District Court is directed to enter a judgment dismissing plaintiffs' petition as moot without prejudice. ¶32 The appeal is dismissed as moot.

The judgment of the District Court is reversed with a direction to enter a new judgment consistent with this opinion. ¶33 CONCUR: ROWE, C.J.; KUEHN, V.C.J.; WINCHESTER, EDMONDSON, COMBS, GURICH, and DARBY, JJ. ¶34 CONCUR IN PART and DISSENT IN PART: KANE, J. While I concur with the majority that the matter is wholly moot, I dissent to the Court's election to vacate the lower court ruling—a remedy which was requested by no party to this dispute. ¶35 CONCUR IN PART AND DISSENT IN PART: JETT, J., joins KANE, J. FOOTNOTES 20 O.S.2021 §3002 See, e.g., Randall v. Fields, 2025 OK 91 581 P.3d 109 75 O.S.2021, § 250 70 O.S.2021, §1-101 70 O.S. §1-101 70 O.S. §§11-101 amici curiae to appear in the appeal and motions to associate counsel pro hac vice in this appeal are denied as moot.

Grisham v. City of Oklahoma City, 2017 OK 69 404 P.3d 843 House of Realty, Inc. v. City of Midwest City, 2004 OK 97 109 P.3d 314 Tulsa Indus. Auth. v. City of Tulsa, 2011 OK 57 270 P.3d 113 City of Broken Arrow v. Bass Pro Outdoor World, L.L.C., 2011 OK 1 250 P.3d 305 cf., R. Stern, E. Gressman, & S. Shapiro, Supreme Court Practice §18.3 (6 th ed. 1986) ("The refusal of courts to decide cases which have become moot because there is no longer a dispute between contesting parties derives from the common law notion that the function of the judiciary is limited to determining rights and obligations that are actually controverted in the particular case before the court.").

See, e.g., Hooper v. City of Tulsa, 71 F.4 th 1270, 1273 (10 th Cir. 2023) (federal district court's grant of a Rule 12(b)(6) motion to dismiss plaintiff's declaratory judgment claim reversed, plaintiff's attempted appeal from a municipal court was moot, district court directed to dismiss plaintiff's attempted appeal "without prejudice for lack of jurisdiction," and cause was remanded "for proceedings consistent with this opinion"); Mounkes v. Conklin, 922 F.Supp. 1501, 1506 (D.

Kan. 1996) ("the court must decide first the 12(b)(1) motion for the 12(b)(6) challenge would be moot if the court lacked subject matter jurisdiction") (citing Moir v. Greater Cleveland Reg'l Transit Auth., 895 F.2d 266, 269 (6th Cir. 1990)); cf. West Va. Highlands Conservancy v. Norton, 161 F.Supp.2d 676, 679 (S.D. W.Va.2001)) (mootness is an Art. III case or controversy question, and although party's motion to dismiss for mootness was pursuant to Rule 12(b)(6), the court "reframes the question as one of the [c]ourt's jurisdiction under Rule 12(b)(1)").

Dutton v. City of Midwest City, 2015 OK 51 353 P.3d 532 Tulsa Industrial Authority v. City of Tulsa, 2011 OK 57 270 P.3d 113 Grider v. USX Corp., 1993 OK 13 847 P.2d 779 See, e.g., De

Roberts v. Town of Cross, 1909 OK 91 cf. Calvary Albuquerque Inc. v. Rubio, *infra* at note 49 (equitable relief may be used to order a vacatur of the trial court judgment although an appeal is dismissed as moot due to the absence of a controversy).

Federal Bureau of Investigation, 601 U.S. at 241 (defendant may not moot a case or controversy by merely stopping a challenged practice); cf. Ramirez v. Collier, 595 U.S. 411, 434, 142 S.Ct. 1264, 212 L.Ed.2d 262 (2022) (a party's inequitable conduct can change whether equitable relief is proper for that party). Lawrence v. Cleveland County Home Loan Authority, 1981 OK 28 626 P.2d 314 Saxon v. Macy, 1990 OK 60 795 P.2d 101 Truttman relied on Weekly v. State ex rel.

Criswell, 1950 OK 296 224 P.2d 593 Childers v. Wallace, 1946 OK 162 169 P.2d 186 12 O.S.2021 §1381 12 O.S.2021 §1451 See, e.g., Pike Off OTA, Inc. et al., v. Oklahoma Turnpike Auth., 2023 OK 57 531 P.3d 107 Leathers v. Commercial Nat. Bank in Muskogee, 1965 OK 200 410 P.2d 541 Amoco Production Co. v. Lindley, 1980 OK 6 609 P.2d 733 Landry v. Acme Flour Mills Co., 1949 OK 170 211 P.2d 512 Black's Law Dictionary 1364 (4th ed.

1951) (Pro tanto. "For so much: for as much as may be; as far as it goes."). See also Skouby v. Board of Educ. of Schl Dist. No. 60, 1930 OK 273 288 P. 461 Univ. of Tex. v. Camenisch, 451 U.S. 390, 398 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981) (right to a preliminary injunction was moot but right to damages remained "for trial on the merits" upon remand). Rodgers v. Higgins, 1993 OK 45 871 P.2d 398 American Natural Resources, LLC v. Eagle Rock Energy Partners, LP, 2016 OK 67 374 P.3d 766 Knight v. Miller, 2008 OK 81 195 P.3d 372 Berkson v. State ex rel.

Askins, 2023 OK 70 532 P.3d 36 State ex el. Oklahoma Bar Ass'n v. Bailey, 2023 OK 4 530 P.3d 24 Shawareb v. SSM Health Care of Okla., Inc., 2020 OK 92 480 P.3d 894 Henry v. Corp. Comm'n of State of Okla., 1990 OK 104 825 P.2d 1262 Deck v. Missouri, 544 U.S. 622, 633, 125 S.Ct. 2007, 161 L.Ed.2d 953 (2005); In re K.H., 2021 OK 33 507 P.3d 647 In re D. B. W., 1980 OK 125 616 P.2d 1149 cf. Firefighters Local Union No. 1784 v. Stotts, 467 U.S. 561, 569-70, 104 S.Ct.

2576, 81 L.Ed.2d 483 (1984) (issue of mootness included whether circumstances continued "to have an impact on the parties such that the case remains alive"); see also, *Id.*, 467 U.S. at 585 (O'Connor, J., concurring) ("When collateral effects of a dispute remain and continue to affect the relationship of litigants, the case is not moot.") (note omitted).

In re D. B. W., 1980 OK 125 Johnson v. CSAA General Ins. Co., 2020 OK 110 478 P.3d 422 Stare decisis, "[t]o abide by, or adhere to, decided cases." Black's Law Dictionary, 1577 (5th ed. 1951), has a vertical plane when a lower court applies precedent from a higher court, and a horizontal plane when a court applies its precedent to itself. See, e.g., Thomas R. Lee, Stare Decisis in Historical Perspective: From the Founding Era to the Rehnquist Court, 52 Vand.

L. Rev. 647, 664, n.84, & 667-81 (1999) (difference between vertical and horizontal planes of stare decisis, and the Marshall Court's treatment of horizontal precedent and justification for departing therefrom). *State Oil Co. v. Khan*, 522 U.S. 3, 20, 118 S. Ct. 275, 139 L.Ed.2d 199 (1997). See, e.g., *Matter of Estate of Middleton*, 2018 OK 7 412 P.3d 96 *State Oil Co. v. Khan*, 522 U.S. 3, 20, 118 S. Ct.

275, 139 L.Ed.2d 199 (1997) (changed circumstances, lessons of accumulated experience, presumption concerning deference to legislative action, and when a legislative body expects courts to draw on a common-law tradition); *Janus v AFSCME Council 31*, 585 U.S. 878, 917, 138 S. Ct. 2448, 201 L Ed 2d 924 (2018), (Stare decisis "is at its weakest" when the Constitution is interpreted because the interpretation can be altered only by constitutional amendment or by overruling a prior decision, and stare decisis applies with perhaps least force of all to decisions that wrongly denied First Amendment rights.).

Berkson v. State ex rel. Askins, supra at note 33, 2023 OK 70 12 O.S. § 2012 *Guzman v. Guzman*, 2021 OK 26 507 P.3d 630 *Knox v. Oklahoma Gas and Electric Co.*, 2024 OK 37 549 P.3d 1260 12 O.S. §2012 *Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1216 (10th Cir. 2006) ("A longstanding line of cases from this circuit holds that where the district court dismisses an action for lack of jurisdiction, as it did here, the dismissal must be without prejudice...Since standing is a jurisdictional mandate, a dismissal with prejudice for lack of standing is inappropriate, and should be corrected to a dismissal without prejudice.") (material and citations omitted); cf. *Dozier v. Ford Motor Co.*, 227 U.S.App.D.C.

1, 702 F.2d 1189, 1194-95 (D.C.Cir.1982) (Scalia, J., for court) (" res judicata has application to questions of jurisdiction;" but res judicata effect of a dismissal for lack of subject matter jurisdiction did not preclude plaintiff from proceeding with claim in a state court); *Cassidy v. Bd. of Educ. of Prince George's Cnty.*, 316 Md. 50, 557 A.2d 227, 231-32 (1989) ("a judgment on demurrer, based merely on formal or technical defects and raising only a question of pleading or want of jurisdiction, is no bar to a second action for [the] same cause," and *Dozier* not applied) (quoting *Moodhe v. Schenker*, 176 Md. 259, 4 A.2d 453, 457 (1939)).

See, e.g., *Martin v. Gray*, 2016 OK 114 385 P.3d 64 *Casida v. Coffey*, 2007 OK 14 154 P.3d 1274 *Morrison v. Board of Education of Ind. Sch. Dist. No. 6*, 1967 OK 36 424 P.2d 963 *Anco Mfg. & Supply Co., Inc. v. Swank*, 1974 OK 78 524 P.2d 7 *Branch Trucking Co. v. State ex rel. Okla. Tax Comm'n*, 1990 OK 41 801 P.2d 686 See also *Calvary Albuquerque Inc. v. Rubio*, 154 F.4th 1246, 1250 (10th Cir.

2025) (*Munsingwear* applied and described vacatur of a judgment as an equitable remedy used when an appeal is dismissed as moot). See, e.g., *Dority v. Green Country Castings Corp.*, 1986 OK 67 727 P.2d 1355 *Dice v. Akron, Canton & Youngstown R.R.*, 342 U.S. 359, 72 S.Ct. 312, 96

L.Ed. 398 (1952) (federal law and not state law governing a release of claims must be applied in a state court case under the Federal Employers' Liability Act [45 U.S.C.A. §§51 et seq]).

See, e.g., *State ex rel. Okla. Firefighters Pension and Retirement System v. City of Spencer*, 2009 OK 73 237 P.3d 125 cf. *Crest Infiniti, II, LP v. Swinton*, 2007 OK 77 12 O.S.2021, §952 See, e.g., *Federal Land Bank of Wichita v. American Bank & Trust Co.*, 1991 OK 91 823 P.2d 359 *OBI Holding Co. v. Schultz-Butzbach*, 2025 OK 55 579 P.3d 581 *Affiliated Ute Citizens of Utah v. Ute Indian Tribe of Uintah & Ouray Rsrv.*, 22 F.3d 254, 256 n.1 (10th Cir.1994).

Sanders v. Turn Key Health Clinics, 2025 OK 19 566 P.3d 591 *DeFunis v. Odegaard*, 84 Wash.2d 617, 529 P.2d 438 *Ackerley Communications, Inc. v. City of Seattle*, 92 Wash. 2d 905, 602 P.2d 1177 en banc). *Ackerley Communications, Inc.*, supra note 56, 602 P.2d at 1183; c f., *Commodity Futures Trading Comm'n v. Board of Trade*, 701 F.2d 653, 655 (7th Cir. 1983) ("Although mootness is sometimes painted in black and white...it should be painted in shades of gray, since few controversies are wholly beyond the power of changed circumstances to revive....") (material and citation omitted).

70 O.S.2021 §11-103.6a *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177, 2 L.Ed. 60 (1803).