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Alaska Supreme Court Moves Climate Law Forward, but Falls Short of Granting Youth the Remedies they Seek

Youth Will Ask the Court to Reconsider Its Decision

Anchorage, Alaska – Today, the Alaska Supreme Court issued important rulings in a case brought by Alaskan youth to address climate disruption and protect their public trust resources in Alaska. While falling short of granting the relief sought by the youth, the Court wrote that the youth “make a good case. . . that the atmosphere is an asset of the public trust, with the State as trustee and the public as beneficiary”. The Court agreed with the youth that the State of Alaska has obligations to combat climate change, calling the science of anthropogenic climate change “compelling,” and citing numerous climate science studies and reports. The Court also stated that the atmosphere and the ecosystems it protects should be subject to constitutional protections even without the Court’s legal declaration. Nonetheless, the Court found that for “prudential reasons” it would not order the relief requested by the plaintiffs. The youth will ask the Court to reconsider its decision.

The Court affirmed long-standing principles of the Public Trust Doctrine. Importantly, the Court also ruled that the youth had legal standing to bring their climate change case, an issue that has plagued and defeated other climate change cases. In upholding citizen access to the courts, the Court concluded that the youth plaintiffs have shown “direct injury” resulting from climate change, including harms alleged by plaintiff Nelson Kanuk, “whose family . . . had to evacuate its home because of climate change.” In rejecting the State defendant’s defense that the individual young people should not have access to the courts because everyone will be harmed by climate change, the Court said that to deny “judicial redress for the most widespread injury solely because it is widespread – is perverse public policy.” The Court also ruled in the youths’ favor in rejecting the State’s sovereign immunity defense.

As well, the Court agreed with the six youth plaintiffs that their entire case was not entirely barred by the political question doctrine, rejecting another defense raised by the State. The Court explained that “the [lower] court dismissed the [youth’s] entire lawsuit on political question grounds, which was error.”

In its ruling, the Supreme Court of Alaska sent a clear signal to the legislative and executive branches that it is their obligation to address carbon emissions and climate stabilization, an issue primed for the ballot boxes in Alaska's upcoming elections.

“The Court did some really good things in this decision today by ruling that people have the right to be in court because of harms from climate disruption and by underscoring the *importance* of the constitutional public trust doctrine,” said Brad DeNoble, counsel for the youth plaintiffs. “We will ask the Court to reconsider their essential role in *enforcing* the public trust. The Court agrees that the legislative and executive branches must protect all public trust resources, but when those branches fail to meet their fiduciary duty to do so, it has always been up to the courts to intervene. That is why our founders created the judiciary in the first place, as a check on the other branches. So, we will ask the Court to reconsider its essential role in enforcing the state's public trust fiduciary responsibility as it relates to the atmosphere.”

The youth brought the case to force Alaska, which is on the front lines of the climate crisis, to reduce CO₂ emissions in order to help reverse climate change and protect the state's natural resources as required by the Alaska Constitution. In bringing this lawsuit, the youth are driven by their own struggles with climate change and by the alarming research of our nation's top scientists. For more than three years, Nelson Kanuk, now a sophomore at the University of Alaska – Fairbanks, and one of the youth plaintiffs in the case, has been speaking out about the impacts of climate change on his native community of Kipnuk and to his own home, which was destroyed due to flooding and melting permafrost earlier this year. Kanuk has spoken across the country as a witness of climate impacts and as a young representative of native and indigenous communities.

“I hope the Court will take another look at whether they have a role to play in protecting our future. Determining our rights is critical when we are facing such life-changing impacts in our State from climate disruption,” reflected Nelson Kanuk. “When our legislature and executive aren't doing anything, where else can we turn? And how long must we wait and watch our ice melt and our food sources diminish? What if the political will comes when it's too late? The Court should not wait to be a check on the other branches of government after it's too late to matter. This is their moment and we'll keep asking until someone answers with the help we need.”

More than twenty of the nation's most highly respected environmental law professors and scholars filed an [*amicus curiae* \(“friend of the court”\) brief](#) supporting the youths' arguments. They explain that state governments have a fundamental duty to “protect the public's crucial assets from irrevocable damage” and that the atmosphere is a “quintessentially public resource subject to government stewardship.” Furthermore, these law professors emphasize that “[b]y sitting idle in the face of a calamitous planetary ecological crisis,” state governments are “abdicating their constitutional responsibilities as sovereign trustees to protect the climate for today's citizens and for future generations.”

"In response to the Court's decision, Alaska youth will redouble their efforts to have the State of Alaska set meaningful standards to protect the atmosphere and stabilize the climate in

accordance with the science of renowned climate scientist James Hansen,” said Julia Olson, Executive Director and Chief Legal Counsel of Our Children’s Trust. “The Alaska decision is one important step forward, with much more work to be done to uphold these young people’s rights. Youth around the country are asking their governments to protect their futures against climate disruption. It may take the U.S. Supreme Court to finally decide the fate of our children and grandchildren.”

The Alaska youth plaintiffs’ lawsuit is part of one of the most comprehensive legal strategies on the climate crisis to date, organized by OUR CHILDREN’S TRUST. As part of the global Campaign, OUR CHILDREN’S TRUST has supported youth in the filing of legal actions in all 50 states and against the federal government to establish the right to a healthy atmosphere and stable climate. To learn more about Nelson’s story watch the short award-winning documentary [TRUST Alaska](#), and to learn more about the TRUST Campaign, watch [A Climate of TRUST](#) and visit www.ourchildrenstrust.org.

Our Children's Trust is a nonprofit advocating for urgent emissions reductions on behalf of youth and future generations, who have the most to lose. OCT is spearheading efforts to compel governments to safeguard the atmosphere as a "public trust" resource. We use law, film, and media to elevate their compelling voices. Our ultimate goal is for governments to adopt and implement enforceable science-based Climate Recovery Plans with annual emissions reductions to return to 350 ppm.

www.OurChildrensTrust.org/

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