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Ninth Circuit Court of Appeals to Decide Whether *Juliana v. United States* Goes to Trial

Eugene, Oregon - Today, U.S. District Court Judge Ann Aiken issued an order certifying *Juliana v. United States* for interlocutory appeal to the Ninth Circuit Court of Appeals. In staying the case pending a decision by the Ninth Circuit, Judge Aiken maintained that the landmark constitutional climate lawsuit brought in 2015 by 21 young Americans would be better situated for appeal after trial, not before. In stating she did not “make this decision lightly,” Judge Aiken repeatedly emphasized that she stood by her prior rulings and believed the case should go to trial.

Now that the district court has certified its orders in *Juliana* for interlocutory appeal, the Ninth Circuit must decide itself whether the case is appropriate for early review or whether it would undermine Congress’ interest in avoiding unnecessary and wasteful appeals before final judgment. By its order, the district court sent a strong signal to the Ninth Circuit that their review should await a decision on the merits after trial as to whether the United States has infringed the constitutional rights of the young plaintiffs. The district court wrote in its [order](#):

“This Court stands by its prior rulings on jurisdictional and merits issues, as well as its belief that this case would be better served by further factual development at trial.”

“The Court notes again that this three-year-old case has proceeded through discovery and dispositive motion practice with only trial remaining to be completed.”

“As Justice Stewart noted, ‘the proper place for the trial is in the trial court, not here.’”

The Department of Justice’s efforts in *Juliana* reflect a new litigation pattern by the Trump administration of running to the appellate courts when the administration is displeased with a decision. The attorneys for the plaintiffs are confident that their briefing filed with the [Ninth Circuit](#) and the [U.S. Supreme Court](#) this week makes clear that mandamus should be denied and no early appeal should be granted. Over the course of three years, the Department of Justice has made multiple attempts to delay trial and upset the

normal appellate process, as illustrated by the [tables](#) the plaintiffs submitted to the appellate courts earlier this week.

In that briefing, plaintiffs' counsel explain that they have spent more time fighting stay and mandamus requests than they would spend in trial. They also say they are ready to proceed to trial immediately and that any remaining discovery can be completed within days.

Julia Olson, executive director and chief legal counsel of **Our Children's Trust** and co-counsel for youth plaintiffs said:

“The government’s conduct in this case has been rife with misstatements to the courts, repetitive delay tactics, and unfounded claims of supposed irreparable harm of having to go to trial. These claims are not supported by a shred of evidence. In contrast, our youth have thousands of pages of evidence and the best experts on the planet ready to testify under oath that these plaintiffs’ lives, liberties, and property are threatened by these defendants, that their world is being endangered and destroyed as we speak. It is hard to keep giving these young people hope in their judicial system, when all they see is a series of stops and starts, especially when both sides admit the case is ready for trial. So we tell these youth that the struggle for justice is hard and requires vigilance. As the Chief Justice just stated, ‘there are an extraordinary group of dedicated judges’ sitting in those halls of justice trying their best to make the right decisions and follow the law. And we tell our plaintiffs that when the courts face a case of this import, constitutional questions that are so central to our democracy and to our freedom, they will want all the facts in evidence so that the decision can be the best possible judgment a court can make. This case deserves a reasoned decision from an independent judiciary, and that can only happen on a full record with rigorous presentation of evidence at trial, just as Judge Aiken indicated. We still believe that is where the *Juliana* case is headed. I hope a favorable decision will not come too late for a real remedy.”

Philip Gregory, of Gregory Law Group and co-counsel for the Youth Plaintiffs, said:

“As Judge Aiken stated in her Order, given the sheer volume of evidence submitted by Plaintiffs, trial presents ‘the most efficient course for both the parties and the judiciary.’ We believe the Ninth Circuit will agree with Judge Aiken that ‘this case would be better served by ... trial.’ As a result of the extreme urgency of the climate crisis, we believe the Court of Appeals will act quickly on this matter and allow these young Plaintiffs and the climate science their day in court.”

Miko Vergun, 17-year-old plaintiff from Beaverton, Oregon, said:

“It is upsetting to watch the people in charge completely disregard my future by allowing further delays to our trial. We all fight for things that affect our lives and that we believe in, but this is a fight to survive and we have no time to lose to more delays. Climate change affects where I was born in the Marshall Islands and where I now live in Oregon. It’s like wherever I go, I can’t escape it. I feel like the people leading this country are failing young people like me.”

Juliana v. United States is *not* about the government’s failure to act on climate. Instead, these young plaintiffs between the ages of 11 and 22, assert that the U.S. government, through its *affirmative actions*

in creating a national energy system that causes climate change, is depriving them of their constitutional rights to life, liberty, and property, and has failed to protect essential public trust resources. The case is one of many related legal actions brought by youth in several states and countries, all supported by Our Children's Trust, and all seeking science-based action by governments to stabilize the climate system.

Counsel for Plaintiffs are Julia Olson, Esq. of Eugene, OR, Philip L. Gregory, Esq. of Gregory Law Group of Redwood City, CA, and Andrea Rodgers, Esq. of Seattle, WA.

***Our Children's Trust** is a nonprofit organization, leading a coordinated global human rights and environmental justice campaign to implement enforceable science-based Climate Recovery Plans that will return atmospheric carbon dioxide concentrations to below 350 ppm by the year 2100. We elevate the voice of youth, those with most to lose in the climate crisis, to secure the legal right to a healthy atmosphere and stable climate on behalf of all present and future generations. www.ourchildrenstrust.org/*

***Earth Guardians** is a Colorado-based nonprofit organization with youth chapters on five continents, and multiple groups in the United States with thousands of members working together to protect the Earth, the water, the air, and the atmosphere, creating healthy sustainable communities globally. We inspire and empower young leaders, families, schools, organizations, cities, and government officials to make positive change locally, nationally, and globally to address the critical state of the Earth. www.earthguardians.org*

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