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Juliana v. US Plaintiffs Argue the Ninth Circuit Court of Appeals Should Let Them Go To Trial

Youth Plaintiffs File Their Brief in Response to the Government

San Francisco, California - Today, attorneys for the 21 young Americans behind the constitutional climate lawsuit, *Juliana v. United States*, filed their [answer](#) to the government's brief with the Ninth Circuit Court of Appeals.

The case, which was supposed to begin trial on October 29, 2018 in Eugene, Oregon is now pending before the Ninth Circuit Court of Appeals. The Court, in a 2-1 [decision](#), granted the Trump administration's petition for permission to bring an early (interlocutory) appeal in the case. Chief Judge Sidney Thomas and Circuit Judge Marsha Berzon decided in favor of the petition, while Circuit Judge Michelle Friedland dissented.

In January, the three-judge panel [granted](#) plaintiffs' request to expedite the briefing schedule in *Juliana*, which put the appeal on a fast-track. The Court will hear oral arguments on the interlocutory appeal during the week of June 3 in Portland, Oregon.

On February 1, the Trump administration filed its [opening brief](#) with the Court and contended that the United States government can knowingly deprive American children of a life-sustaining climate system without violating the Constitution.

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

“These young people deserve the chance to present their full case against their government who is harming them and let the light of justice fall where it may. We will keep shining light on our fundamental constitutional rights until we obtain justice for our children and put an end to U.S.-sanctioned climate change.”

In their brief, plaintiffs argue:

1. The Court does not have jurisdiction over this case because the prerequisites for interlocutory appeal have not been met.
2. The defendants cite no evidence to support their arguments.
3. The defendants rely entirely on incorrect arguments regarding the limits of Article III powers.
4. The Court should allow the case to proceed to trial so any subsequent appellate review is based upon a fully developed factual record, and the Court could then base its decision on a concrete judgment from the district court granting (or denying) relief, rather than the hyperbolic speculation in defendants' brief.
5. On the existing evidentiary record, to deny an actionable constitutional right is tantamount to denying the plaintiffs their lives and safety, upending the Framers' intent in the founding documents and the Bill of Rights.
6. The Constitutional role of Article III courts, and individuals' liberty rights, will be best protected by affording plaintiffs the same opportunity as other citizens injured by the actions of the political branches: a courtroom in which to present their evidence and an appellate process to occur after, not before or during, trial.

Plaintiffs' brief concludes with the following:

“The Framers substituted a constitutional democracy with a tripartite form of government in place of a monarchy. Since the early days of the Republic, our judiciary has been a last line of defense against governance that threatens the lives and liberties of the People. As a critical check on governance, the courts have reckoned with large, entrenched government systems and institutions that deprive people of unalienable rights, including widespread systems of racial and sex discrimination, which harm and burden our Nation's children. When the tripartite system of governance did not timely redress the gross deprivation of unalienable rights resulting from legalized slavery, the result was civil war. While imperfect, our constitutional democracy allows these children to seek to protect their lives, liberty, property, and pursuit of happiness without declaring independence from their government, so long as those who govern assent to review by our courts and let the facts be told in the light of day so that justice may be illuminated and the vital constitutional conversation had between the three branches of government. These young people deserve that chance to present their full case against those who through their governance harm them, and let the light of justice fall where it may. Plaintiffs respectfully request that the Court remand to the district court for trial.”

Vic Barrett, 19-year-old plaintiff from White Plains, New York said:

“It's hard for me to believe that the U.S. Federal Government doesn't see how they stray away from the fundamental ethics of our constitution when they prioritize the interests of a few over the future stability of generations of young Americans. This rampant disregard for the needs of the vulnerable violates the rights secured to me by the constitution.”

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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