



For Immediate Release: Feb. 10, 2021

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9th Circuit Denies *En Banc* Review for *Juliana v. United States*; Youth Plaintiffs Will Take Their Case to Supreme Court

EUGENE, Ore. -- Today the 9th Circuit Court of Appeals denied a request by 21 youth plaintiffs for the full court to rehear their landmark constitutional climate lawsuit, [*Juliana v. United States*](#). The youth plaintiffs say it is now up to the U.S. Supreme Court to correct the legal errors made in the 9th Circuit's January 2020 ruling and to protect the ability of federal courts to interpret the constitution and resolve controversies through a declaration of law.

The youth are also requesting that the Biden-Harris administration defendants and Department of Justice come to the settlement table.

The *en banc* petition was filed in March 2020 to address several legal errors in the 9th Circuit's January 2020 majority opinion, including its unprecedented holding that declaratory relief is unavailable to resolve a legal controversy in a case involving fundamental rights and that federal courts lack power to remedy constitutional violations.

"The Ninth Circuit failed to correct the legal errors in the panel decision," said plaintiffs' attorney Julia Olson. "A central component of our democracy since *Marbury v. Madison* is the ability of our courts to declare what the law is, and resolve the real controversies brought to them by the people. The Ninth Circuit has deprived people in that Circuit the ability to seek a resolution of a real controversy with their government, and hear a controversy about harm to the health and safety of children. It goes against Supreme Court precedent and the precedent of every other Circuit. That travesty cannot stand."

Attorneys for the plaintiffs [filed the *en banc* petition](#) on March 2, 2020, asking that 11 judges review their ability to bring constitutional claims that the federal government has harmed them by being a substantial cause of the climate crisis. A judge requested a vote on whether to rehear the matter *en banc*, but the majority of judges declined to rehear the case. Plaintiffs say that by its actions -- including creating and maintaining a national energy system powered by fossil fuels long after knowing that it causes climate change -- the government has violated their constitutional rights to life, liberty and property; the public trust; and equal protection of the laws.

Plaintiff Nathan B. said, "To quote [Judge Staton from January 2020](#): 'If Plaintiffs' fears, backed by the government's *own studies*, prove true, history will not judge us kindly.' Contrary to what some may believe, it does not provide solace to have a new administration at the reins without

the judicially enforceable remedy we seek. Political pressure does not recognize the fundamental rights of young people. Political pressures does not give us the due process and equal protection we require. The court does that. Today's decision will rightfully feel like the court has abandoned its role as the necessary constitutional balance for children, a voteless population. We are now left flailing in the rough seas of political expediency."

Plaintiff Sahara V. said, "I hope and need the Biden administration to hear what the youth are saying, and to recognize how we are disproportionately affected by climate change and we will face the consequences of this administration's actions and all the past administration's actions. I hope that President Joe Biden will understand the crisis we're in, stop fighting our claims and our rights, and will decide to come to the settlement table in our case."

Plaintiff Nick V. said, "I feel a deep sense of sadness that the Court has decided to neglect our rights and the rights of future generations to experience a livable climate."

In the January 2020 divided ruling, the 9th Circuit's majority opinion held that the evidence showed a) climate change was occurring at an increasingly rapid pace, b) the unprecedented rise in atmospheric carbon dioxide levels stemmed from fossil fuel combustion will wreak havoc on the Earth's climate if unchecked, c) the federal government has long understood the risks of fossil fuel use and increasing carbon dioxide emissions, and d) the government's contribution to climate change was not simply a result of inaction, but of affirmative actions. They also recognized that the youth plaintiffs had suffered concrete and particularized injuries from the government's conduct that causes climate change.

The youth plaintiffs are now between the ages of 13 and 24.

Our Children's Trust is a nonprofit public interest law firm that provides strategic, campaign-based legal services to youth from diverse backgrounds to secure their legal rights to a safe climate. We work to protect the Earth's climate system for present and future generations by representing young people in global legal efforts to secure their binding and enforceable legal rights to a healthy atmosphere and stable climate, based on the best available science. We support our youth clients and amplify their voices before the third branch of government in a highly strategic legal campaign that includes targeted media, education, and public engagement work to support the youths' legal actions. Our legal work – guided by constitutional, public trust, human rights laws and the laws of nature – aims to ensure systemic and science-based climate recovery planning and remedies at federal, state, and global levels. 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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