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Alaska Supreme Court Denies Young Alaskans Access to Justice in Constitutional Climate Case: 2 Active Justices Rule for the Youth; 1 Active Justice and 2 in Retirement Rule for the Government

ANCHORAGE – In a split 3-2 decision today, following oral arguments that took place almost two and a half years ago, the Alaska Supreme Court [denied](#) 16 young Alaskans, including Alaska Natives, their right to bring their constitutional case challenging the state's policy of promoting fossil fuels. Only one active justice on the bench, Justice Winfree, ruled against the youth; two retired justices who are no longer on the bench - Justices Bolger and Stowers - joined the majority. Two active justices - Justices Maassen and Carney - ruled the youth should be able to protect their rights to a climate system that sustains life under the Alaska Constitution.

The January 28, 2022 ruling in [Sagoonick v. State of Alaska](#) follows a hearing in October 2019 before Alaska Supreme Court Justices Winfree, Stowers, Maassen, and Carney, who heard oral arguments for the case.

In another powerful dissent, following Supreme Court dissents in *Chernaik v. Brown* (Oregon) and *Aji P. v. State of Washington* and Judge Staton's dissenting opinion in the Ninth Circuit Court of Appeals in youth climate cases brought by Our Children's Trust, Justices Peter J. Maassen and Susan M. Carney wrote the law "...requires that we explicitly recognize a constitutional right to a livable climate — arguably the bare minimum when it comes to the inherent human rights to which the Alaska Constitution is dedicated."

The two dissenting justices wrote, "Allegations that climate change destroys natural resources or even limits their continuing availability for present and future generations clearly implicate the State's stewardship responsibilities under article VIII." They agreed with the youth that "the Alaska Constitution recognizes the right to a climate system that is healthy enough to 'sustain human life, liberty, and dignity.'"

Justices Maassen and Carney continued, “And I am not as stymied as the court is today by the inability to predict the course of future climate litigation. As is true with every constitutional right, case law will continue to define the right further in the context of more specific controversies — including the extent to which it includes individuals’ interests in ‘safely rais[ing] families, learn[ing] and practic[ing] their religious and spiritual beliefs, learn[ing] and transmit[ting] their [N]ative cultural traditions and practices, and lead[ing] lives with sufficient access to clean air, water, shelter, and food,’ as the plaintiffs explain their claimed right in the amended complaint. Courts have grappled diligently with such unformed concepts as ‘fundamental rights,’ ‘substantive due process,’ and ‘right of privacy,’ clarifying rights and duties a case at a time. That we cannot answer every subsequent question does not mean we should shy away from answering the first.”

The justices concluded their dissent - which cited recent climate litigation dissents from Ninth Circuit Court of Appeals Judge Josephine Staton and Oregon Supreme Court Chief Justice Martha Walters - with the following: “In my view, the law requires that the State, in pursuing its energy policy, recognize individual Alaskans’ constitutional right to a livable climate. A declaratory judgment to that effect would be an admittedly small step in the daunting project of focusing governmental response to this existential crisis. But it is a step we can and should take. For that reason I respectfully dissent.”

Andrew Welle, lead counsel for the plaintiffs, stated, “With today’s decision, a majority of the Alaska Supreme Court betrayed their duty to safeguard the constitutional rights of these youth and serve as a check on the conduct of the state. The decision not only allows Alaska’s government to continue destroying the conditions necessary for human life, throwing literal and figurative fuel on the fire of an already critical climate crisis, it also makes the Court complicit in that conduct, further endangering the health, safety and futures of Alaskan children. The climate crisis requires urgent justice for Alaska’s youth and we will not stop fighting for justice on their behalf.”

Julia Olson, Chief Legal Counsel for Our Children’s Trust and lead counsel in *Juliana v. U.S.*, stated: “This decision today is a 2-1 win for the youth from the active justices on this Court. And one day soon, it *will* be the majority opinion. More and more judges around the country and the world are finally embracing their constitutional role to be a check on the political branches of government that are destroying the planet and lives of children. Today, Justice Winfree and two of his retired colleagues told Alaskans that their politicians have unchecked permission to continue to set policy that explicitly prioritizes the monied interests of fossil fuel development over the lives and health and safety of children. On no other policy issue that so blatantly destroys lives and violates constitutional rights would this Court completely defer to the legislature’s decision and tell citizens who are being harmed by their own government’s actions that they have no right to even have their claims heard by the judiciary, the very body charged by our nation’s founding fathers with enforcing the constitution and protecting the rights of the people. In time, today’s decision will join such egregious denials of human rights as *Dred Scott* and *Korematsu* in the trash bin of judicial history.”

Brad De Noble, co-counsel for the youth, stated, “With its ruling today, the majority of the Alaska Supreme Court denied these Alaska youth plaintiffs their constitutional right to their day in court to protect their lives and to hold the State of Alaska accountable for its policies promoting fossil fuels that significantly contribute to climate change. However, they remain undeterred and will continue to fight for their constitutional rights and hold the State of Alaska accountable for its policies and actions contributing to the climate crisis here in Alaska. This fight is not over.”

Lead plaintiff in the case, Summer Sagoonick, 20, said, “I am very disappointed with what the court decided today. With climate change worsening with every season of Alaska’s continuing promotion of fossil fuels, it is hard to tell how long our sustainable life may last. We count on our wildlife and land for survival. Because of Alaska’s continuing emissions, we have no choice but to work harder for what we need, whether it’s food, warmth, or transportation. Our irreplaceable peoples, lands, cultures, and ecosystems are infinitely more precious than the short-term profits of the fossil fuel industry, which threatens our state economy and our way of life. I am proud of my fellow plaintiffs for raising their voices, but yet, we were not even allowed to be heard. It will only be a matter of time until the state’s promotion of fossil fuels irreversibly alters the climate we depend on for our lives and culture.”

Plaintiff Griffin P., 24, said, “By refusing to even hear our case, the court is bending to the political will of politicians rather than working towards justice for our generation and future generations. The risk to our communities from worsening climate change is real, and ignoring the reality on the ground will not avoid that risk, only moving away from burning fossil fuels will. Despite today’s decision, we will keep fighting for Alaska’s climate future. This is not over.”

The plaintiffs claim that Alaska’s fossil fuel energy policy causes and exacerbates the climate crisis in Alaska, harming their health, safety, homes, and cultures in violation of their fundamental rights under Alaska’s Constitution.

Regarding next steps for the youth plaintiffs, Welle said, “These youth are resolute in their quest for climate justice. With the state continuing to undermine their health, safety, and futures, we will evaluate our next steps and will continue to fight for climate justice.”

The youth were supported by [Alaska Native groups](#), [the League of Women Voters Alaska](#), and [31 law professors from 26 law schools](#), all of whom filed *amicus curiae* (friend of the court) briefs with the Alaska Supreme Court arguing that the youths’ case should go to trial.

Counsel include Andrew Welle, Esq. of Eugene, Ore. and Brad De Noble, Esq. of Eagle River, Alaska.

[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.