



For Immediate Release: September 16, 2022

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Oral Arguments Held in Virginia Youth Climate Case; Youth to Appeal Decision

Layla H. v. Commonwealth of Virginia argues state's ongoing permitting of fossil fuels causes and contributes to climate crisis, violating the youth plaintiffs' constitutional rights

RICHMOND, Va.—Youth plaintiffs and their attorneys in the constitutional climate case [*Layla H. v. Commonwealth of Virginia*](#) appeared today before the Honorable Clarence N. Jenkins Jr. at the Richmond City Circuit Court to present the youth's position on why the case should be permitted to proceed to trial. Over 100 supporters joined the youth plaintiffs in the courtroom and at a post-hearing [press conference](#) on the courthouse plaza.

During the hearing, Judge Jenkins Jr. ruled from the bench that the Virginia government is immune from being sued for violating Virginia citizens' rights to life and liberty, which are protected by the Virginia Constitution Bill of Rights. Judge Jenkins Jr.'s ruling relied on a doctrine called "sovereign immunity," which means that the state cannot always be sued unless it agrees to be sued. Judge Jenkins Jr. said in his ruling from the bench that "the court will not address the merits" of youth plaintiffs' constitutional claims and he will rule to dismiss the case.

The youth plaintiffs and their attorneys will file a prompt appeal of this decision.

"This type of ruling in the Commonwealth is dangerous and undermines the very foundation of democracy," said Nate Bellinger, Senior Staff Attorney at Our Children's Trust and lead counsel for the plaintiffs. "The government is not an all powerful sovereign in a democracy—that is called tyranny. We, the People, are sovereign and our government gets its power from us. In 1776, Virginians adopted a constitution and a bill of rights that empowered the people to protect life, liberty, and property against government abuse. It formed the basis of the Declaration of Independence and the bill of rights in the U.S. Constitution. Today, Judge Jenkins Jr. closed the courthouse door to all Virginians seeking to protect their most fundamental rights, those of life and freedom. This type of ruling would shut the courthouse door to protecting First Amendment

rights to free speech and religious expression, to Eighth Amendment rights to be free from cruel and unusual punishment, and many more. This ruling cannot stand. There is no Supreme Court precedent to support it and it should be overturned. We will stand up for democracy and a safe climate on behalf of our young clients and appeal this unjust decision that threatens democracy in the Commonwealth of Virginia.”

In *Layla H. v. Commonwealth of Virginia*, the youth plaintiffs argue that the Commonwealth’s historic and ongoing permitting of fossil fuels is causing and contributing to the climate crisis, and violating the young Virginians’ constitutional rights to life and liberty, which are protected in the bill of rights of the Virginia Constitution. The youth also assert the state is violating its public trust duty to protect elements of the public domain, including the atmosphere. By continuing to rely primarily on fossil fuels as its main energy source, the Commonwealth of Virginia is exacerbating climate change by polluting the atmosphere with excessive greenhouse gas emissions, causing grave harm to the 13 youth plaintiffs.

Youth plaintiff Layla H. reacted to the ruling: “It seems like every possible indication of the world being in a state of crisis has shown its face, every alarm bell has been rung...and yet nothing. We, as plaintiffs and youth activists, will not wait any longer to do what must be done. I hope, for my and future generations’ sake, that the right decision will be made in court in the future and we will be able to take our case further. To quote one of my favorite scientists, Jane Goodall, ‘What you do makes a difference, and you have to decide what kind of difference you want to make.’ This is the lasting difference I hope we will make, not as individuals, but together as Virginians.”

“I’m deeply disappointed in the ruling, concerned for my future, and hopeful that change will come as we appeal this case,” said Claudia S., youth plaintiff. “Climate change is one of the most urgent issues of my lifetime, and the decisions we make today will have a direct impact on my future and the future of my children and grandchildren. This case holds Virginia responsible for the choices it has made that exacerbate climate change and impede on the wellbeing and livelihood of young people. I am proud to be a plaintiff in this case demanding that Virginia acknowledge its responsibility to create a livable future for all generations.”

Amaya T., youth plaintiff, remarked: “It was important to me to be a part of this case because I care deeply about the environment and I want to preserve the Earth as long as possible. Poor air quality causes problems not just for me but for many others. Climate change has a significant impact on people of color and I want to use my voice to call attention to that.” In response to the Judge’s ruling, she stated, “I’m disappointed the judge didn’t rule in our favor today but the fight is not over.”

Counsel for the *Layla H.* youth plaintiffs include Nate Bellinger and Kimberly Willis of Our Children’s Trust, and Isak Howell, Attorney at Law.

In addition to *Layla H. v. Commonwealth of Virginia*, Our Children’s Trust represents and supports young people in global and U.S. state climate litigation like *Natalie R. v. State of Utah*,

Navahine F. v. Hawai'i Department of Transportation, and *Held v. State of Montana* which, when it proceeds to trial in 2023, will be the first-ever children's climate trial in U.S. history. Our Children's Trust also represents the 21 youth plaintiffs in the landmark federal constitutional climate lawsuit, *Juliana v. United States*, where the plaintiffs are currently awaiting a decision in their case that could put them back on the path to trial.

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Our Children's Trust is the world's only nonprofit public interest law firm that exclusively 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 safe climate, based on the best available science. www.ourchildrenstrust.org