
POLICY. SCIENCE. BUSINESS.

WASHINGTON

State court nixes climate case in *Juliana* mold

Maxine Joselow, E&E News reporter

Published: Wednesday, February 10, 2021

A state appeals court this week dealt another blow to 13 young people who sued Washington state over its alleged failure to protect them from climate change, finding that the challengers had raised questions for the political branches of government to resolve.

Yet the three-judge panel on the Washington Court of Appeals appeared sympathetic to the claims of the youths, who argued that the right to a safe climate is inherently enshrined in the Constitution.

"We firmly believe that the right to a stable environment should be fundamental. In addition, we recognize the extreme harm that greenhouse gas emissions inflict on the environment and its future stability," Judge Lori Smith wrote in a unanimous [opinion](#) Monday affirming dismissal of the lawsuit.

"However," she continued, "it would be a violation of the separation of powers doctrine for the court to resolve the Youths' claims."

The 13 challengers filed their complaint in February 2018, when they were between the ages of 8 and 18, alleging that Washington state had "injured" them by promoting fossil fuel-based energy and transportation systems.

The youths sought an order requiring the state to develop a climate recovery plan aimed at reducing carbon dioxide emissions by 96% by 2050.

But King County Superior Court Judge Michael Scott dismissed their suit in August 2018, saying the challenge raised political questions that the courts can't answer.

The Washington Court of Appeals similarly found that the young people invoked issues that fall within the purview of lawmakers and the federal government.

"The Youths' claims inevitably involve resolution of questions reserved for the legislative and executive branches of government," Smith wrote.

If the court compelled Washington state to draft a climate recovery plan, "[b]y all intents and purposes, we would be writing legislation and requiring the legislature to enact it," the judge wrote. "But we cannot force the legislature to legislate, and we cannot legislate ourselves."

Our Children's Trust, an Oregon-based nonprofit group that represented the youths, plans to petition the Washington Supreme Court to review the ruling.

"This decision is a travesty of justice," Andrea Rodgers, a senior litigation attorney with Our Children's Trust, said in a statement.

"The panel fundamentally fails to grasp the role of the judicial branch in interpreting the Constitution and declaring the law," Rodgers said. "This decision will go down in history as an example of a court abandoning their duty to enforce the Constitution in the face of an existential crisis."

In many respects, the Washington case bears similarities to *Juliana v. United States*, in which 21 youths called on the federal government to phase out fossil fuels and slash carbon dioxide emissions.

A three-judge panel of the 9th U.S. Circuit Court of Appeals "reluctantly" dismissed the *Juliana* case last year, even as it acknowledged the "increasingly rapid" pace of global warming ([Greenwire](#), Jan. 17, 2020).

The *Juliana* challengers, who began their fight against the Obama administration in 2015, are still waiting to learn whether the 9th Circuit will rehear their case before a larger panel of judges.

Twitter: [@maxinejoselow](#) | Email: mjoselow@eenews.net

The essential news for energy & environment professionals

© Politico, LLC [Privacy and Data Practices Policy](#) [Site Map](#) [Contact Us](#)
