

# Lawsuit could put U.S. government's role in climate change on trial

*A lawsuit filed on behalf of 21 kids alleges the U.S. government knowingly failed to protect them from climate change. If the plaintiffs win, it could mean massive changes for the use of fossil fuels. 60 Minutes reports, Sunday at 7 p.m. ET/PT*

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FACEBOOK

UCLA Professor of Environmental Law Ann Carlson thought it would be dismissed. But the lawsuit filed on

behalf of a group of kids alleging the U.S. government knowingly failed to protect them from climate change isn't going away. The Trump administration alone has lost five appeals to stop it, two in front of the U.S. Supreme Court. If won, says Carlson, the impact on America would be "massive." Steve Kroft reports on this unusual yet significant suit on the next edition on 60 Minutes, Sunday, March 3 at 7 p.m., ET/PT on CBS.

Juliana v. United States alleges the constitutional rights of the 21 plaintiffs are being denied by the government for continuing to promote fossil fuels, despite knowing of their link to climate change and its impact. It is named for the lead plaintiff Kelsey Juliana, a 22-year-old University of Oregon student. Julia Olson, an Oregon lawyer and the executive director of the non-profit legal center, "Our Children's Trust," filed the suit four years ago. She has compiled 50 years and 36,000 pages of evidence, some going back to the Lyndon Johnson Administration.

The case has forced the government to make many admissions about the relationship between human activity and climate change, leaving much of the suit's evidence uncontested. It's one of the reasons courts have not dismissed it. Another reason, says Carlson, is its plaintiffs. "You have a number of kids who are very compelling plaintiffs who are experiencing the harms of climate change now and will experience the harms of

climate change much more dramatically as they get older."

Olson selected the plaintiffs from 10 states. The youngest is 11-year-old Levi Draheim, who lives on a mile-wide barrier island in Florida. Walking along the beach near his home, the sixth-grader says he has a stake in climate change. "I fear that I won't have a home here in the future... That the island will be underwater because of climate change."

Olson likes where she stands. "They admit that the government has known for over 50 years that burning fossil fuels would cause climate change...don't dispute... that climate change is a national security threat and a threat to our economy...to people's lives and safety," she says. "We have them with their own words. It's really the clearest, most compelling evidence I've ever had in any case I've litigated in over 20 years," Olson tells Kroft.

In what could be a landmark decision someday, a federal judge in Eugene, Oregon, ruled against the government's motion to dismiss, writing, "Exercising my reasoned judgment, I have no doubt that the right to a climate system capable of sustaining human life is fundamental to a free and ordered society." Says Carlson, "That's a big stretch for a court," pointing out the Constitution does not provide for protecting the environment. Still, she says, allowing the government to be asked to protect its

citizens from climate change, is not that radical.

But Carlson warns: "If the plaintiffs won, it'd be massive, particularly if they won what they're asking for, which is get the federal government out of the business of in any way subsidizing fossil fuels and get them into the business of dramatically curtailing greenhouse gases in order to protect the children who are the plaintiffs in order to create a safe climate. That would be enormous."

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# ***Judges Give Both Sides a Grilling in Youth Climate Case Against the Government***



Kelsey Juliana, a lead plaintiff in the case, greeting supporters outside the courthouse in Portland, Ore.  
Andrew Selsky/Associated Press

**By John Schwartz**  
June 4, 2019

Three federal judges heard arguments Tuesday about whether young people have a constitutional right to be protected from climate change. In the lively, hourlong hearing, the judges, from the Court of Appeals for the Ninth Circuit, pushed skeptically on the arguments of both sides.

The [closely watched lawsuit](#), Juliana v. United States, was scheduled to begin last October, but the court granted the Trump administration an unusual pretrial appeal. Their decision could have important implications for this and [other attempts to use the courts to pursue climate action](#) across the United States.

A brief filed by the plaintiffs in the case demands that the government step up to protect today's children, and future generations, from the worst effects of climate change. It says they risk being deprived of their "[rights to life, liberty, property, and public trust resources by federal government acts that knowingly destroy, endanger, and impair the unalienable climate system that nature endows.](#)"

The federal government wants the case dismissed before it can even go to trial, but the brief argues that "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." The plaintiffs have also asked the government to put the brakes on new fossil fuel extraction projects while the case is

pending.

Lawyers for the Trump administration have argued [in their legal filings](#) that the young people’s “misguided” case is fatally flawed and that “there is no fundamental constitutional right to a ‘stable climate system.’” What’s more, the government argues, the plaintiffs’ proposed solution is unworkable and unconstitutional, “essentially placing a single district court in Oregon — acting at the behest of a few plaintiffs with one particular perspective on the complex issues involved — in charge of directing American energy and environmental policy.”

The three judges on the panel, which was held in Portland, Ore., were Mary H. Murguia and Andrew D. Hurwitz of the Ninth Circuit Court of Appeals, and Josephine L. Staton of District Court for the Central District of California. All three judges were appointed to their current positions under President Barack Obama. The judges pressed the lawyers for both sides, seeming to suggest that the government’s arguments in favor of shutting down the case were too narrow and finding the plaintiffs’ legal theories too sweeping.

Judge Hurwitz leaned on the government’s claim that even if the executive branch of the government is doing harm through inaction on climate change, a lawsuit can’t correct the problem. He led the Trump administration’s lawyer, Jeffrey Bossert Clark, through a far-fetched hypothetical involving Canadian terrorists crossing the border and kidnapping and killing children. Under the government’s theory, he asked “the plaintiffs would have no option but to die?”

Julia Olson, the lead lawyer for the plaintiffs, had no easier time before the judges. Judge Hurwitz, again, pressed her point that the rights she was asking the courts to recognize were not difficult to find in the Constitution. “You’re asking us to do a lot of new stuff, aren’t you?” he asked.



Two of the plaintiffs, Vic Barrett, left, and Kelsey Juliana, in court on Tuesday before the hearing began.  
Pool photo by Robin Loznak

Since it was originally filed in 2015, the Obama administration had also tried to stop this case, arguing that these are issues suited to the executive and legislative branches, not the courts.

But while the Obama administration signed the Paris climate agreement and took action to curb greenhouse gas emissions, the Trump administration has announced plans to [leave the Paris deal](#) and

is working [to roll back dozens of environmental regulations](#). It has also sought [to undercut the science](#) that shows that global warming is real and that there is an urgent need for action.

Andrea Rodgers, a lawyer for the plaintiffs, noted that the administration regularly points to its progress in promoting fossil fuels. (It recently referred to [methane as “freedom gas.”](#)) Yet, she said, “as the delays continue, the government-created public health disaster gets worse.”

Mary Wood, the Philip H. Knight professor of law at the University of Oregon, said in an interview before the hearing that the Trump administration was “aggressively accelerating toward the climate cliff through its frenzied fossil fuel policy, at a time when nations around the world are slamming on the brakes.” Professor Wood provided some of the legal reasoning that the plaintiffs’ case is built upon.

The group of 21 young people first sued the United States government through a group called Our Children’s Trust. The case, and the children, are aging. “We’ve been doing this four years,” said Vic Barrett, one of the plaintiffs. “For some of us, that’s a quarter of our lives.” Five of them are now old enough to buy beer and 14 of them can vote.



Julia Olson, third from left, chief legal counsel for Our Children’s Trust, with some of the 21 youth plaintiffs she represents during a rally in Eugene, Ore., in October.  
Andy Nelson/The Register-Guard, via Associated Press

In the years since the case was filed, the sense of urgency about the need to address climate change has only grown, with reports like the one last year from the United Nations climate panel that [projected dire consequences without vigorous action](#), including worsening food shortages and wildfires, and a mass die-off of coral reefs as soon as 2040.

In those same years, a youth climate movement has risen up and adopted Juliana as part of their [broader call for action on climate change](#). “It’s not just these 21 young people across the United States,” said Mr. Barrett, who is now 21 and a student at the University of Wisconsin. “It’s about highlighting young people all over the United States, and the work we’re doing and the work we’re continuing to do to hold the government accountable for putting our future in jeopardy.”

The plaintiffs want the case to go forward so they can present evidence in a court of law. The judges

could decide to dismiss the case, though the timing of their decision is anyone's guess, and the consequences could go far beyond this suit.

"If the Ninth Circuit expresses a view about the proper role of the courts in addressing climate change, that could have broad implications for other cases," said Prof. Michael Gerrard, founder of the Sabin Center for Climate Change Law at Columbia Law School. "But it is also possible that the court will rule on narrow procedural grounds that apply only to this case."

Sean Hecht, the co-executive director of the [Emmett Institute on Climate Change and the Environment](#) at the University of California, Los Angeles, said that while the judges raised fundamental questions about the arguments of both sides, "I felt like the judges didn't really tip their hand."

David M. Uhlmann, a former federal prosecutor who now heads the environmental law program at the University of Michigan, said: "In my heart, I love this lawsuit. Everything that's compelling about this lawsuit from the beginning is even more compelling today."

"I think anybody who has studied this court would have to conclude this is an uphill battle" he said, but added, "it's not a foregone conclusion that the Supreme Court would reject these claims."



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# Kids' climate lawsuit to go before Alaska court

*State supreme court will determine whether case that accuses government of endangering public welfare can proceed.*

Jeff Tollefson

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Shrinking glaciers are one obvious sign of climate change in Alaska. Credit: Joe Raedle/Getty

Alaska's supreme court will hear arguments on 9 October in a climate lawsuit that accuses the state government of violating the rights of young people by encouraging the use of fossil fuels.

Sixteen children and young adults, ranging in age from 7 to 22, filed the lawsuit. They argue that the state of Alaska has a constitutional responsibility to protect the climate as a public resource for future generations. Their goal is to overturn a state law enacted in 2010 to promote fossil-fuel development.

The supreme-court hearing will determine whether the lawsuit, known as *Sinnok v. Alaska*, can go to trial.

"The government is actively promoting fossil fuels," says Julia Olson, executive director of Our Children's Trust, a non-profit group in Eugene, Oregon, that is aiding the plaintiffs. "We are saying that it's the court's job to review the constitutionality of laws and policies that are being implemented by the state, and that are putting peoples' lives and homes in danger."

The Alaska case is one of several legal challenges filed by young environmentalists — and their lawyers — around the world. Most recently, on 23 September, [Swedish activist Greta Thunberg](#) and 15 other children submitted a complaint to the United Nations Committee on the Rights of the Child, arguing that Argentina, Brazil, France, Germany and Turkey have violated their human rights by failing to adequately address climate change.

And a decision is expected soon in the landmark climate case *Juliana v. United States*. The children and young adults who brought the suit [allege that the US government has impinged on their constitutional rights](#) to life, liberty and property by promoting fossil-fuel consumption. A federal appeals court in San Francisco, California, is set to rule on whether the lawsuit — one of several filed with help from Our Children’s Trust — can proceed to trial. Many legal experts expect the case to end up before the US Supreme Court.

## Second try

The Alaska case is patterned after a similar lawsuit filed in 2011, in which Alaskan children argued that the state had violated their rights by failing to control greenhouse-gas emissions. In 2014, the Alaska supreme court dismissed the case because it did not challenge specific actions by the government — unlike the latest suit.

If the young plaintiffs in the Sinnok case succeed in forcing the state of Alaska to take stronger action against climate change, their victory would be unprecedented, says Michael Burger, executive director of the Sabin Center for Climate Change Law at Columbia University in New York. But regardless of their ultimate outcomes, he says, kids’ climate lawsuits around the world have succeeded in attracting media coverage and increasing public discourse on climate change.

“If you look at the overall impact of these youth lawsuits against state governments,” Burger says, “you’ll find a great deal of that kind of indirect effect.”

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