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While Washington Wildfires Rage, State Appellate Judges Consider Whether Young Climate Change Plaintiffs Will Get Their Day in Court

With the loss of more than a half-million acres to wildfires on both sides of the Cascades, and children unable to go outside into hazardous air conditions, the attorney representing young people in a constitutional climate change lawsuit on Thursday urged the Washington State Court of Appeals to order that their case can be heard in court.

During an in-person hearing in an empty courtroom because of COVID-19 precautions, Andrea Rodgers, who represents the 13 young plaintiffs in [*Aji P. v. State of Washington*](#), argued through her mask that even though climate change is a hot-button political issue, it is not outside the scope of judicial review. "At the very least, these children are entitled to have a court decide" whether their rights are being infringed upon by the government's actions contributing to the climate crisis. "Closing the courthouse doors to the youth at this stage is a miscarriage of justice," she said.

The plaintiffs, who are suffering a wide array of climate change-related harms, including real-time injuries caused by the devastating wildfires, filed a constitutional climate lawsuit in 2018 against the state, Gov. Jay Inslee and several state agencies, for the actions they are taking that make the climate crisis worse.

During the hearing, judges peppered Assistant Attorney General Christopher Wright with comments and questions. "For the last seven days I can't go outside – I have to stay inside with the windows shut," noted Judge David S. Mann, who has asthma. He questioned how something like that doesn't affect life and liberty rights.

Mann also posited it would give plaintiffs "a heck of a lot of power to go back to the legislature" if appellate judges returned the case to the trial court and the trial court issued declaratory judgment.

In spite of the state's expressed desire to address climate change, greenhouse gas emissions in Washington continue to rise. The complaint asserts that in causing climate change, Washington has violated the youngest generation's constitutional rights to life, liberty, property, and equal protection of the law; and has caused impairment of

essential public trust resources. The plaintiffs seek a declaration of their fundamental rights to life, liberty, and a healthful environment and a government-created plan to comprehensively address the crisis.

“My young clients are experiencing devastating climate change impacts today. Many are unable to safely leave their homes because of the deadly air quality. We are hopeful that the judges recognize how climate change affects individual rights to life and liberty and allow these children to present evidence at trial to prove that their government is making these climate harms worse,” Rodgers said.

The 20-minute hearing can be [viewed here](#).

[Aji P. v. State of Washington](#) is one of several youth-led climate change lawsuits brought by [Our Children’s Trust](#). Other state cases include [Held v. State of Montana](#), [Sagoonick v. State of Alaska](#), [Chernaik v. Brown](#) (Oregon), and [Reynolds v. State of Florida](#). Our Children’s Trust also represents the youth plaintiffs behind the landmark federal constitutional climate lawsuit, [Juliana v. United States](#), which was brought by 21 young Americans and the youth-led climate organization, Earth Guardians.

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/