

Young People's Day in Court

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May 2 could be an historic day, as young people have their day in court, at 9:30 AM in the United States Court of Appeals in Washington, DC¹. This concerns the legal case that young people have filed against the United States federal government, the case for which the paper [“Assessing ‘Dangerous Climate Change’: Required Reductions of Carbon Emissions to Protect Young People, Future Generations and Nature”](#) provides the scientific basis.

A U.S. District Court earlier ruled against young people, in essence saying that the young people had not shown a Constitutional basis by which the Court could require the U.S. government to deliver a plan defining how it would reduce emissions consistent with what science shows is necessary to stabilize climate. Young people had filed their case based on the “trust” concept, the argument that the present generation has a fiducial responsibility to deliver a safe atmosphere and climate to the next generation. The “trust” concept is well established in law and American history, as Thomas Jefferson, a farmer, argued that his generation must not deplete the soil, but rather must leave it in equally fertile condition for the next generation. However, our current Administration argued against the young people, saying that it had established the Environmental Protection Agency, and thus had sufficiently carried out its duties. Industrial polluters joined the federal government in court, arguing against the case filed by the young people.

In my opinion, the Court's initial ruling was for the best, because it forces attention upon our most fundamental rights. Our Constitutions purpose to “provide the blessings of liberty to ourselves and our posterity...” implies obligations to the young and the unborn. Our nation was founded on the “self-evident” concept that all people have equal rights. The Constitution assures that all people, including young people, will receive “equal protection of the laws” and that no one can be deprived of property without “due process” of law. Furthermore, this focus on fundamental rights has global relevance because of substantial commonality of our Constitution with The Universal Declaration of Human Rights.

In an [amicus brief](#) that I filed with 10 of my colleagues we point out that the claim by the United States government that climate change presents “the possibility of some remote future injury” evinces a fundamental misunderstanding of the nature of the climate threat. Our brief makes clear that atmospheric CO₂ today is already in the dangerous zone, and the government should present a plan to reduce fossil fuel emissions and increase carbon uptake by the land and biosphere at rates required to reduce atmospheric CO₂ this century to at most 350 ppm.

The situation is crystal clear. The climate threat is undeniable. Yet the executive and legislative branches of government, concerned with short-term politics, are failing to protect young people.

¹ This is an influential court, arguably the most important court beneath the Supreme Court. See http://en.wikipedia.org/wiki/United_States_Court_of_Appeals_for_the_District_of_Columbia_Circuit

The Founders of our Democracy established a Judicial branch of government with such situations in mind. We must be sure that the judges ponder the full implications of their ruling. It would be very helpful if the court room were packed with young people, so that the judges can look in the eyes of the youth who will feel the benefit or brunt of their decision.

This court, the United States Court of Appeals for the District of Columbia Circuit, is widely viewed as our most important court save only the Supreme Court, and it frequently has had a central role in affecting our national policies and law. Its judges are frequently tapped as Supreme Court Nominees. The three judges who will hear the young people's case are Chief Judge Garland (Clinton appointee), Senior Circuit Judge Ginsburg (Reagan appointee once nominated for the Supreme Court), and Circuit Judge Srinivasan (Obama appointee).

The Court will hear three cases on Friday morning May 2, with the case for young people (Alec L. et al. vs. Gina McCarthy, et al.) scheduled first, thus expected to be 9:30 AM. The lawyer for the young people will have 30 minutes to present their case and the government and industry will have 30 minutes to respond. The judges frequently interrupt, so much of the 30 minutes for each side may be used by the judges, but the two sides will have equal time. After the case is argued, i.e., at about 10:30 AM the youth plan to have a rally outside the courthouse, and we will probably make plans to have lunch together, perhaps outside, depending on weather.

I believe that witnessing this historic day in court for youth is worth missing a day of school, and indeed would be educational. The presence of sufficient youth could make a difference. The courtroom will hold about 120 people and there is an overflow room where the arguments can be live-streamed. If we should end up with more people than can fit in the courtrooms, their attendance outside and at the rally will make the proceedings all the more effective.

Some information on the hearing is at <http://ourchildrenstrust.org/sites/default/files/D.C.CourtofAppealsHearingFlyer.pdf> and a short film on the overall matter is at <http://ourchildrenstrust.org/trust-films/AClimateOfTRUST>.

Those people planning to attend, or organize attendance by a class or individual youth, should send an e-mail to both my program coordinator Nicole <ncrescimannno@ei.columbia.edu> and Meg <meg@ourchildrenstrust.org>. We will send further details and updates as plans progress.

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