

1. Mark your confusion.
2. Show evidence of a close reading.
3. Write a 1+ page reflection.

## Montana Judge Hands Young Plaintiffs Significant Victory in Landmark Climate Trial

Source: Ella Nilsen, CNN.com, August 14, 2023

A Montana judge handed a significant victory on Monday to more than a dozen young plaintiffs in the nation's first constitutional climate trial, as extreme weather becomes more deadly and scientists warn the climate crisis is eroding our environment and natural resources.

In a case that could have legal reverberations for other climate litigation, District Court Judge Kathy Seeley ruled that Montana's continued development of fossil fuels violates a clause in its state constitution that guarantees its citizens the right to a "clean and healthful environment."

Montana is one of several states that have explicit environmental guarantees written into their state constitutions.

While Seeley's ruling won't prevent mining or burning fossil fuels in the state, it will reverse a recently passed state law that prohibits state agencies from considering planet-warming pollution when permitting fossil fuel projects.

It is also a landmark win for young climate advocates who are turning more to the courts for judgments on the causes and impacts of the climate crisis. "Plaintiffs have a fundamental constitutional right to a clean and healthful environment, which includes climate as part of the environmental life support system," Seeley wrote in her order.

Rikki Held, one of the plaintiffs, told CNN's Jake Tapper on "The Lead" the outcome was "a long time coming" and she was very excited.

"Getting a ruling that listens to our stories and our voices and the best available science is just really important," she said.

Attorneys for the plaintiffs called the court's decision a "sweeping win" in a statement.

"Today, for the first time in US history, a court ruled on the merits of a case that the government violated the constitutional rights of children through laws and actions that promote fossil fuels, ignore climate change, and disproportionately imperil young people," said Julia Olson, chief legal counsel and executive director of Our Children's Trust. "This is a huge win for Montana, for youth, for democracy, and for our climate. More rulings like this will certainly come."

Olson told Tapper she thinks the ruling will hamper the state's ability to approve fossil fuel projects.

"The judge says it's unconstitutional to continue to do so. And the state's going to have to look hard at continuing to allow fossil fuel development and emissions in Montana going forward," Olson said.

Experts noted that while the state of Montana didn't try to dispute the science of climate change during the trial, they argued the state's greenhouse gas emissions were a drop in the bucket compared to global emissions.

The Montana attorney general's office will appeal Seeley's ruling to the Montana Supreme Court, Emily Flower, a spokeswoman for Attorney General Austin Knudsen, said in a statement.

"This ruling is absurd, but not surprising from a judge who let the plaintiffs' attorneys put on a weeklong taxpayer-funded publicity stunt that was supposed to be a trial," Flower said. "Their same legal theory has been thrown out of federal court and courts in more than a dozen states. The State will appeal."

Yet some legal experts believe this case sets a tone for climate litigation in the US.

“Seeley’s decision is “dramatic,” said Pat Parenteau, emeritus professor of law at the Environmental Law Center at Vermont Law School. “Any decision by any court recognizing a constitutional right to a safe climate would be a breakthrough in the US for sure.”

### **Impact on other cases**

Olson and other attorneys are also pursuing a federal case against the Biden administration, as well as cases in four other states; another youth climate trial could start in Hawaii as soon as this fall.

The youth victory in Montana could serve as a new legal underpinning for future cases – especially in other state courts, legal experts said.

“People are very attuned to what’s happening in other jurisdictions,” said Daniel Farber, an environmental law professor and expert at the University of California Berkeley. “It does send a signal to judges in other states that maybe these cases aren’t so far out after all.”

The Montana case won’t have a direct impact on another federal climate case – Juliana v. United States – that Our Children’s Trust lawyers are also bringing in hope it will go to trial by spring of 2024. The federal climate case alleges the federal government’s activities allowing further fossil fuel development, including permitting and leasing for oil and gas drilling, is violating young people’s constitutional rights to life, liberty and property.

Olson recently told CNN she hopes the state case will boost the Juliana case.

“I do think it will inform at the federal level as well, even though it’s not binding on federal courts,” Olson said.

But independent experts said they expect the Juliana case to have a difficult path forward: The Biden administration’s Department of Justice is aggressively fighting it from getting to trial, the US constitution does not contain such explicit guarantees to a clean environment and a conservative US Supreme Court likely won’t look favorably on it, given its recent opinions that have made it more difficult for federal agencies to regulate planet-warming pollution.

“We’re all operating under the shadow of a conservative Supreme Court,” Michael Gerrard, founder of the Sabin Center for Climate Change Law at Columbia University Law School, told CNN. “This Supreme Court has been more about taking away rights than granting new ones.”

Still, Gerrard and other experts said the Montana case is an important step in a small but growing body of climate change law in the US.

“I think with any really new idea, a big part of what you’re trying to do with a new kind of litigation is get it from seeming like a very fringe speculative activity to the point where it becomes thinkable for judges that they take these cases seriously,” Farber told CNN. “And they can’t just put them aside into the category of far-out legal efforts.”

### **Possible Response Questions**

- What are your thoughts about the court’s decision in this court case? Explain.
- Did something in the article surprise you? Discuss.
- Pick a word/line/passage from the article and respond to it.
- Discuss a “move” made by the writer in this piece that you think is good/interesting. Explain.