

Marshall Islands' Nuclear Zero Lawsuit Appeal Dismissed in Ninth Circuit Court

By [Nuclear Age Peace Foundation](#)
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San Francisco—The Ninth Circuit Court of Appeals today ruled to affirm the U.S. Federal District Court's dismissal of the Nuclear Zero lawsuit, brought by the Republic of the Marshall Islands (RMI).

The lawsuit sought a declaration that the United States was in breach of its treaty obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and international law, and asked the court to order that the United States engage in good-faith negotiations.

The suit also contended that the United States clearly violated its legal obligations to pursue nuclear disarmament by spending large sums of money to enhance its nuclear arsenal. The U.S. plans to spend an estimated \$1 trillion on nuclear weapons over the next three decades. President Trump has said he wants to build up the U.S. nuclear arsenal to ensure it is at the “top of the pack,” saying the United States has “fallen behind in its nuclear weapons capacity.”

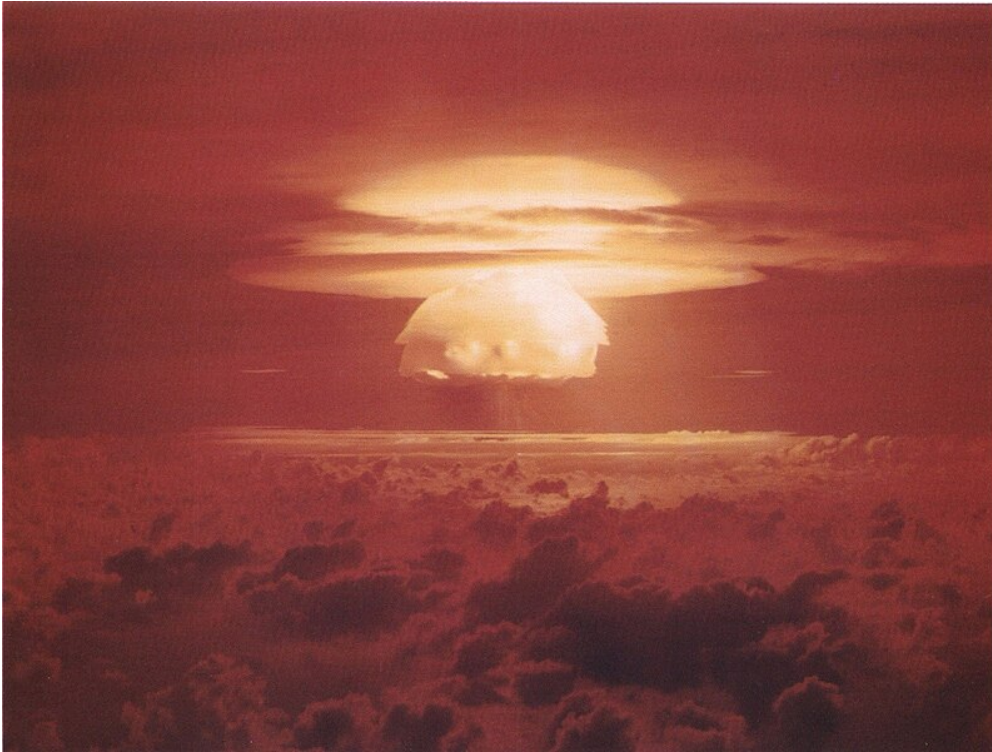
The case was initially dismissed on February 3, 2015 on the jurisdictional grounds of standing and political question doctrine without getting to the merits of the case. Oral arguments were then heard in the 9th Circuit Court of Appeals on March 15, 2017.

The ruling today from the court held that Article VI was non-self-executing and therefore not judicially enforceable. The panel also found that the Marshall Islands' claims presented inextricable political questions that were nonjusticiable and must be dismissed.

Laurie Ashton, lead attorney representing the Marshall Islands commented,

“Today’s decision is very disappointing. But it is also more than that, because it undercuts the validity of the NPT. There has never been a more critical time to enforce the legal obligations to negotiate in good faith for nuclear disarmament. While the Ninth Circuit decision focuses on its inability to judicially determine the parameters of such negotiations, which are at the discretion of the Executive, with respect, the Court failed to acknowledge the pleading of the RMI, supported by the declarations of experts, that such negotiations have **never taken place**. At issue was whether Article VI requires the US to at least attend such negotiations, or whether it may continue to boycott them, as it did with the Nuclear Ban Treaty negotiations. To that we have no answer.”

Marshall Islanders suffered catastrophic and irreparable damages to their people and homeland when the U.S. conducted 67 nuclear tests on their territory between 1946 and 1958. These tests had the equivalent power of exploding 1.6 Hiroshima bombs daily for 12 years.



Mushroom cloud from the largest atmospheric [nuclear test](#) the [United States](#) ever conducted, [Castle Bravo](#). (Source: [Wikimedia Commons](#))

The Marshall Islands did not seek compensation with this lawsuit. Rather, it sought declaratory and injunctive relief requiring the United States to comply with its commitments under the NPT and international law.

Rick Wayman, Director of Programs for the Nuclear Age Peace Foundation (NAPF) and a consultant to the Marshall Islands in their lawsuit, stated,

“This ruling from the Ninth Circuit continues the trend of a complete lack of accountability on the part of the U.S. government for its nuclear proliferation, active participation in a nuclear arms race, and refusal to participate in nuclear disarmament negotiations.”

Wayman continued,

“The Marshall Islanders made a valiant and selfless effort to bring the U.S. into compliance with its existing legal obligations. I deeply appreciate the RMI’s courageous leadership on today’s most pressing existential threat. Together with willing non-nuclear countries and non-governmental organizations around the world, we will continue to work until the scourge of nuclear weapons is eliminated from the earth.”

The full opinion can be found at <http://bit.ly/9th-opinion>

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