

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-60299

BRANTLEY WILLIS,

Plaintiff-Appellant,

VERSUS

KIRK FORDICE, Governor of the
State of Mississippi, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
For the Southern District of Mississippi

(3:93-CV-818)

(May 12, 1995)

Before JOLLY, SMITH and DeMOSS, Circuit Judges.

PER CURIAM:*

Plaintiff Brantley Willis, a member of the Mississippi Band of Choctaw Indians, brought this action against 11 defendants¹ in an

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

¹Willis sued three sets of defendants: (1) Boyd Gaming Corporation and Boyd Mississippi, Inc. ("Boyd Gaming"); (2) Secretary of the Interior Bruce Babbitt, Assistant Secretary for Indian Affairs Ada Deer, National Indian Gaming Commission Chairman Tony Hope, and National Indian Gaming Commission member Jana McKeag

attempt to prevent casino gambling on the lands held in trust for the Choctaw by the United States. Willis asked the federal district court to enjoin construction of the casino and declare the Choctaw's negotiated tribal-state compact invalid on the basis that the Mississippi governor had no authority under state law to enter into such a compact. Willis also contended that the federal defendants had no authority to approve a compact that was invalid under state law. On April 8, 1994, the court entered an order granting the various defendants' motions to dismiss Willis' claims. See Willis v. Fordice, 850 F. Supp. 523 (S.D.Miss.1994). The district court held that Willis had no standing to challenge the tribal-state compact, and it therefore granted the motions of Boyd Gaming and the federal defendants to dismiss Willis' action against them under Rule 12(b)(6) for failure to state a claim. The state defendants joined in the Rule 12(b)(6) motion, so Willis' claims against them were also dismissed. Willis brought this appeal.

We have carefully reviewed the briefs, the record excerpts, and relevant portions of the record, and we are satisfied that the decision of the district court was correct. Willis, an individual tribe member who disagrees with the tribe's decision to bring gaming to the reservation, does not have standing to assert his claims in federal court. See Lujan v. Defenders of Wildlife, 112 S. Ct. 2130, 2136 (1992).

("the federal defendants"); and (3) Mississippi Governor Kirk Fordice, Mississippi Gaming Commission Chairman Stuart Irby, Mississippi Gaming Commission members Bill Gresham and Robert Engram, and Mississippi Gaming Commission Executive Director Paul Harvey ("the state defendants").

Willis must meet three requirements to establish standing: (1) he must show that he has suffered an "injury in fact" -- an invasion of a legally protected interest -- and such injury must be concrete and particularized, and actual or imminent as opposed to merely hypothetical or conjectural; (2) he must show a causal connection between the injury and the conduct of which he complains, that is, the injury must be "fairly traceable" to the challenged action of the defendant and not the result of the actions of some independent third party; and (3) it must be likely, rather than merely speculative, that the injury will be redressed by a favorable decision. Lujan, 112 S. Ct. at 2136. Willis claims that the opening of the casino on the Choctaw reservation will damage his tribal homeland by increasing crime and altering the community "in a manner hostile to his traditional and religious beliefs." Willis also contends that the casino will attract competitors to threaten his Indian novelty shop.

The district court held that Willis had no standing to challenge the tribal-state compact, and we agree. The operation of Choctaw casino does not cause him any particularized injury or injury to a legally protected interest. He has not shown any harm different from that which might befall other Choctaws on the reservation or other residents in the community, and he has no legally protected right to be free from gaming on his tribal homeland. We hold that it appears to a certainty -- particularly under the first prong of the Lujan test -- that Willis would not be entitled to relief under any set of facts that could be proven

consistent with his allegations. See also Apache Bend Apartments, Ltd. v. United States Through I.R.S., 987 F.2d 1174, 1176 (5th Cir. 1993)(noting that federal courts will not adjudicate "abstract grievances").

Accordingly, we AFFIRM the judgment of the district court.