

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 98-50859
Summary Calendar

YSLETA DEL SUR PUEBLO,

Plaintiff-Appellant,

versus

GEORGE W. BUSH, JR.;
STATE OF TEXAS,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. P-98-CV-47
- - - - -

August 5, 1999

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:*

The Appellant, Ysleta del Sur Pueblo, appeals the district court's grant of Fed. R. Civ. P. 12(b)(6) motions to dismiss on behalf of Texas Governor George W. Bush, Jr. and the State of Texas.

On May 3, 1999 the Appellant filed an unopposed motion to withdraw the appeal of the district court's order in favor of Governor George W. Bush, Jr. The Appellant's motion is GRANTED.

The remaining appeal seeks reversal of the district court's order in favor of the State of Texas. The Appellant seeks reversal

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

so it can obtain a judicial declaration under the Declaratory Judgment Act, 28 U.S.C. § 2201, that the Appellant's gaming activities at its casino are in compliance with Texas law. The Appellant argues that the lower court erred in barring the Appellant's claim on Eleventh Amendment grounds.

We have reviewed the record and briefs filed by the parties and find that the Appellant has failed to meet its burden to establish the standing and ripeness requirements which are necessary to invoke this court's jurisdiction under Article III of the United States Constitution. See Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992). We therefore affirm the district court's jurisdictional dismissal on an alternate ground. See Esteves v. Brock, 106 F.3d 674, 676 (5th Cir. 1997); United States v. Real Property Located at 14301 Gateway Boulevard West, El Paso County Texas, 123 F.3d 312, 313 (5th Cir. 1997).

AFFIRMED.