

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50318
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARK ANTHONY EVANS, also known as Mark Evans,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. W-96-CR-2-1

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Mark Anthony Evans, federal prisoner #69117-080, appeals the district court's denial of his Rule 33 motion for new trial based on newly discovered evidence. Evans argues that the Supreme Court decision in Jones v. United States, 526 U.S. 227 (1999), requires that drug quantity and its nature be proven beyond a reasonable doubt at trial and that Jones constitutes newly discovered evidence that requires a new trial.

The district court did not abuse its discretion in denying Evans' motion for a new trial based on newly discovered evidence

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

because Evans has not produced any new "evidence." See United States v. Freeman, 77 F.3d 812, 815 (5th Cir.1996); United States v. Alvarado, 898 F.2d 987, 994 (5th Cir. 1990).

AFFIRMED.