

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 00-11197  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRENSON STOVALL,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:99-CR-175-1  
No. 4:99-M-157-ALL  
-----

August 23, 2001

Before KING, Chief Judge, and POLITZ and PARKER, Circuit Judges.

PER CURIAM:\*

Brenson Stovall appeals the district court's denial of his pro se Fed. R. Crim. P. 33 motion for a new trial. The district court denied the motion because Stovall had failed to demonstrate the existence of newly discovered evidence meriting a new trial. Stovall does not argue on appeal that the district court abused its discretion in denying the motion for new trial, and he has therefore abandoned the only issue properly before this court on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir.

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1993). Stovall instead argues for the first time on appeal that his counsel rendered ineffective assistance. Inasmuch as this claim was not raised in the district court, this court will not consider it. See United States v. Higdon, 832 F.2d 312, 314 (5th Cir. 1987).

In light of the abandonment of the only issue that could be raised on appeal, this appeal is frivolous; it is therefore DISMISSED. See 5th Cir. R. 42.2.