

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-30907

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BETTY L. WASHINGTON,

Defendant-Appellant.

Appeal from the United States District Court
For the Eastern District of Louisiana
USDC No. 97-CR-302-ALL-B

June 22, 2001

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Betty Washington appeals the denial of her motion for new trial based upon newly discovered evidence.¹ Washington challenges her conviction for bankruptcy fraud, arguing that "newly discovered evidence" destroyed the credibility of one of the Government's witnesses. We are unpersuaded and now affirm.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

¹ See Fed. R. Crim. P. 33 (2001).

This Court reviews the denial of a motion for new trial for abuse of discretion.² To receive a new trial on the basis of newly discovered evidence, Washington must prove that (1) the evidence is newly discovered and was unknown to her at the time of trial; (2) failure to detect the evidence was not due to a lack of diligence on her part; (3) the evidence is not merely cumulative or impeaching; (4) the evidence is material; and (5) the evidence introduced at a new trial would probably produce an acquittal.³ A motion for new trial must be denied if all parts of this test are not satisfied.⁴

After a careful review of the applicable law and appellate record, we find that the district court's ruling was not an abuse of discretion.⁵

AFFIRMED.

² See *United States v. Sanchez-Sotelo*, 8 F.3d 202, 212 (5th Cir. 1993).

³ See *United States v. Jaramillo*, 42 F.3d 920, 924-25 (5th Cir. 1995).

⁴ See *id.*

⁵ See *id.*