

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 19, 2008

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No. 07-30713  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

NOAH MOORE

Defendant-Appellant

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:03-CR-282-1

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Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Noah Moore, federal prisoner # 24804-013, appeals the denial of his FED. R. CRIM. P. 33 motion for a new trial. He argues that the Government failed to disclose a tacit agreement with a testifying witness, entitling him to a new trial pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963).

Nondisclosure of evidence affecting the credibility of a witness whose reliability may be determinative of guilt violates *Brady*. *United States v.*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Edwards, 442 F.3d 258, 264 (5th Cir. 2006). There is no record evidence, however, of a tacit promise made by the Government promising the witness leniency in exchange for his testimony. Consequently, Moore has not shown the existence of suppressible evidence, see *id.* at 266-67; *United States v. Nixon*, 881 F.2d 1305, 1311 (5th Cir. 1989), and, as such, has not shown an abuse of discretion on the part of the district court in denying his motion for a new trial. See *United States v. Infante*, 404 F.3d 376, 387 (5th Cir. 2005).

AFFIRMED.