

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 08-2561

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United States of America,

Appellee,

v.

Kenneth Redd,

Appellant.

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Appeal from the United States  
District Court for the Eastern  
District of Missouri.

[UNPUBLISHED]

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Submitted: November 24, 2009

Filed: December 4, 2009

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Before WOLLMAN, RILEY, and SMITH, Circuit Judges.

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PER CURIAM.

Kenneth Redd appeals the district court's<sup>1</sup> denial of his Federal Rule of Criminal Procedure 33 motion for a new trial based on newly discovered evidence. We find that the district court did not abuse its discretion in denying Redd's motion, as the evidence that Redd submitted was available before his trial, and was not relevant to the issues in his suppression motion or his trial. See United States v. Grover, 511 F.3d 779, 783 (8th Cir. 2007) (standard of review; requirements to justify new trial under Rule 33).

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<sup>1</sup>The Honorable Charles A. Shaw, United States District Judge for the Eastern District of Missouri.

Accordingly, the judgment is affirmed. We also grant counsel's motion to withdraw and deny Redd's motion for appointment of new counsel.

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