

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50620
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

versus

DOUGLAS MILANTONI,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-95-CR-352-6
- - - - -

April 16, 1997

Before REAVLEY, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Douglas Milantoni appeals the district court's denial of his motion for a bill of particulars based upon alleged lack of specificity in the indictment, and his motion for new trial based on new evidence of a prior conviction of one of the Government's witnesses. The district court did not abuse its discretion in denying a bill of particulars because Milantoni has not shown actual surprise at trial due to a lack of a bill of particulars.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

See United States v. Martino, 648 F.2d 367, 383 (5th Cir. 1981).

The district court did not abuse its discretion in denying the motion for new trial because the new evidence of an undisclosed prior conviction of a Government witness was cumulative and there is no reasonable probability that it would have produced a different result. United States v. Sotelo, 97 F.3d 782, 792 (5th Cir. 1996).

AFFIRMED.