

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6013

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC LEE SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Raymond A. Jackson, Senior District Judge. (4:21-cr-00042-RAJ-RJK-1)

Submitted: March 24, 2026

Decided: April 14, 2026

Before HARRIS and QUATTLEBAUM, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Eric Lee Smith, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Lee Smith appeals the district court's order denying his Fed. R. Crim. P. 33 motion for a new trial.* We review for abuse of discretion a district court's denial of a motion for a new trial. *United States v. Parker*, 790 F.3d 550, 558 (4th Cir. 2015). To succeed on a Rule 33 motion, a defendant must establish all of the following: "that (1) the evidence is newly discovered; (2) the defendant exercised due diligence; (3) the newly discovered evidence is not merely cumulative or impeaching; (4) the evidence is material; and (5) the evidence would probably result in acquittal at a new trial." *United States v. Ali*, 991 F.3d 561, 571 (4th Cir. 2021) (internal quotation marks omitted). Limiting our review to the issues raised in Smith's informal brief, we discern no abuse of discretion in the district court's denial of Smith's motion. *See* 4th Cir. R. 34(b); *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief.").

We therefore affirm the district court's order. *United States v. Smith*, No. 4:21-cr-00042-RAJ-RJK-1 (E.D. Va. Dec. 11, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

* Smith has moved for entry of default judgment on the basis that the government has not filed a response. Given no informal response brief is required under our Local Rule 34(b), we deny that motion.