

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

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Nos. 99-1464/1466

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United States of America,

Appellee,

v.

Lamont Gentry Falls,

Appellant.

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Appeals from the United States  
District Court for the  
Southern District of Iowa.

[UNPUBLISHED]

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Submitted: November 5, 1999

Filed: November 9, 1999

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Before BOWMAN, FAGG, and MURPHY, Circuit Judges.

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PER CURIAM.

Lamont Gentry Falls appeals from the district court's<sup>1</sup> orders denying his motion to remand for an evidentiary hearing on the accuracy of his trial transcript, and denying his motion for a new trial.

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<sup>1</sup>The Honorable Harold D. Vietor, United States District Judge for the Southern District of Iowa.

After careful review, we conclude the district court did not abuse its discretion in denying the motion for a new trial: Falls's discovery of a jury request to view a video surveillance tape did not constitute "newly discovered" evidence, and the motion was untimely if it was based on any other ground. See Fed. R. Crim. P. 33; United States v. Castillo, 171 F.3d 1163, 1167 (8th Cir. 1999) (standard of review); United States v. Luna, 94 F.3d 1156, 1161 (8th Cir. 1996) (prerequisites for new trial based on newly discovered evidence).

We also conclude that we lack jurisdiction to review the denial of the motion to remand for an evidentiary hearing, because the notice of appeal concerning this ruling was untimely. See Fed. R. App. P. 4(b)(1)(A)(i) (criminal defendant's notice of appeal must be filed in district court within 10 days after entry of order being appealed); United States v. Robinson, 64 F.3d 403, 404-05 (8th Cir. 1995) (court lacks jurisdiction to review where notice of appeal is untimely filed).

Accordingly, we dismiss Falls's appeal of the district court's denial of his motion to remand for an evidentiary hearing, and affirm the district court's denial of his motion for a new trial. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.