

ADDENDUM

B

Table of Contents

TABLE OF CONTENTS

- I. The government's recitation of the procedural history and factual history are either mistaken or argumentative or conclusory or material incomplete because of significant omissions.
 - A. The government's account of the prior §2255 proceedings is inaccurate and misleading.
 - B. The government's statement of facts contains numerous errors and is generally unreliable.
 1. Mr. Slaughter was retained early in February or March 2006, not in August 2006. He was given unrestricted access to all information about Mirabilis Ventures Inc., Presidion Solutions Inc., and me. Thus, Mr. Slaughter was not new to the information disseminated at the Mock Deposition as the government implies.
 2. Contrary to the government's allegation the Eleventh Circuit Court of Appeals was not fully apprised of my competency issues.
 3. The Pre-Indictment Plea Agreements were not negotiated.
- II. The government raised five types of defenses: timeliness, procedural default, explicit waiver, implicit waiver, and preclusion (previously decided).
 - A. The government's response leaves unchallenged, thus admitted, a sufficient number of facts to warrant summary judgment on multiple grounds.
 - B. Timeliness
 - C. Preclusion Principles: Previously Decided
 - D. Procedural Default Doctrine
 - E. Waiver Invalid
 - F. Summary of the counter arguments to the government's array of technical defenses.
- III. Specific counterargument to the government's standard defenses on a ground by ground basis reveal the defenses are inapplicable or meritless.
 - A. In the context of the conflict of interest, the government's waiver argument is inaccurate, precluded, and illogical. At sentencing, the government raised Mr. Slaughter's conflict of interest and insisted I waive the conflict. I refused to waive the conflict. The government's affirmative declaration then precludes the government from changing positions now and trying to deny the conflict existed. Even if the government's wish had come true and I had waived the conflict at sentencing, the guilty plea would still be invalid and unconstitutional, since it would not have retroactively waived the conflict eight months earlier during the plea bargaining stage.
 - B. The government miscomprehends the interaction of the rules and the principles governing ineffective assistance of counsel. Particularly, the government does not seem to realize that when counsel's behavior is either presumptively or per se

unreasonable then counsel's choices are no longer given deference on review. Accordingly, its challenges to Grounds Six, Seven, and Eight are critically flawed.

- C. The facts supporting Ground Two are not in the record, nor could they reasonably have been introduced into the record prior to the direct appeal. Thus, Ground Two is not subject to procedural default doctrine.
- D. Grounds Two, Three, and Fourteen encompass competency claims different from the competency claim previously presented to the court of appeals, thus the claims have not been previously resolved.
- E. A pro se's attempt to present claims omitted by counsel excuses procedural default. (Ground Four).
- F. Grounds Five and Fifteen are excepted from the procedural default doctrine because they are based on factual innocence. The essence of these grounds did not have the subjective specific intent to violate a known legal duty; the I.R.S. never heard of the Mock Deposition; and the wire transfer supporting the Klien conspiracy occurred after the alleged conspiracy ended. Consequently, even on the existing record, factual innocence can be demonstrated and a factual innocence claim is expected from the procedural default doctrine.
- G. Grounds Eleven, Twelve, and Thirteen are not subject to either procedural default or waiver, because the nature of the challenges equate to, jurisdictional challenges. The Constitution (and logic) requires that a procedure always exist to challenge a putative, but legally nonexistent judgment.
- H. All government challenges to Ground Fourteen are inapplicable. The essence of the claims the court interfered with the defense's decisions and such conduct is intolerable whether inadvertent or intentional.

IV. Conclusion