

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

vs.

CASE NO: 8:05-Cr-475-T-27TGW

THOMAS SPELLISSY

and

STRATEGIC DEFENSE INTERNATIONAL, INC.

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**ADDENDUM to DEFENDANTS THOMAS SPELLISSY AND STRATEGIC DEFENSE  
INTERNATIONAL, INC.'S JOINT MOTION FOR A CONTINUED STAY OF  
SENTENCE PENDING A HEARING FOR A NEW TRIAL BASED ON NEW  
EVIDENCE.**

Defendants Thomas Spellissy and Strategic Defense International, Inc. (SDI), through their respective undersigned counsel, have additional information for this honorable court for a continued stay of sentence under Title 28 USC § 2255. Defendants continue to move to attack the sentence because additional newly discovered evidence substantiates that the Defendant's have been unjustly convicted of conspiracy to defraud the United States in violation of 18 USC § 371 and additional newly discovered evidence demonstrates the United States Army, part of the Executive Branch of the United States Government, pursuant to the United States Constitution has added its own interpretation of trial evidence and sentencing .

**Additional New Evidence**

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On October 4, 2007 Defendant Spellissy received correspondence from the Department of the Army, Review Boards Agency Support Division. See exhibit A. The enclosure to the correspondence from the Department of the Army, Office of the Assistant Secretary Manpower and Reserve Affairs states “the Government did not discover COL Spellissy’s **misconduct on active duty** until after his retirement, could not discover his misconduct before retirement through due diligence, and did not therefore document his misconduct through conviction in federal district court until after his retirement.” The correspondence continues on and directs him to be retired in the grade of Lieutenant Colonel.

### **ARGUMENT**

This additional new evidence of Defendant Spellissy being on active duty when the alleged conspiracy was conducted and the additional punishment for the guilty verdict strengthens our argument to vacate the judgment because the underlying facts of the case have been substantially changed and additional punishment has been administered in addition to what this court ruled is a great injustice. As a matter of law, the 8<sup>th</sup> Amendment prevents citizens from receiving cruel and unusual punishment. Also, the 5<sup>th</sup> Amendment, the Double Jeopardy Clause protects against abuses of multiple punishments for the same offense.’ U.S. v. Halper, 490 U.S. 435, 440 (1989).

### **CONCLUSION**

According to Eleventh Circuit authority, this motion provides that Defendants Thomas Spellissy and SDI, Inc. are entitled to a stay of sentence under Title 28 USC § 2255.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing has been furnished by

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Electronic Filing to Sheryl L. Loesch, Clerk of the Court, U.S. District Court, Middle District of Florida, located at U.S. Courthouse, 801 N. Florida Ave., #223, Tampa, FL 33602-3800, and that e-mail notification of this filing will be sent to all interested persons on this 5th day of October, 2007.

s/Sean P. Cox

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