

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ERIC LEN LEWIS,)	
)	
Petitioner/Defendant,)	
)	
vs.)	CIVIL NO. 10-580-GPM
)	
UNITED STATES OF AMERICA,)	CRIMINAL NO. 09-40031-GPM
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on a motion to dismiss brought by Respondent/Plaintiff United States of America (Doc. 8). In this case Petitioner/Defendant Eric Len Lewis, who currently is serving a term of imprisonment of sixty months in the custody of the United States Bureau of Prisons for mail fraud and money laundering, challenges his sentence pursuant to 28 U.S.C. § 2255. In his Section 2255 petition Lewis contends that, in the course of the criminal proceeding against him, he received ineffective assistance of counsel, in violation of the Sixth Amendment, and that his sentence constitutes cruel and unusual punishment, in violation of the Eighth Amendment. Among other things, Lewis alleges that counsel in the criminal proceedings against him was ineffective in failing to advise Lewis that, under the terms of a plea agreement between Lewis and the government, Lewis waived the right to bring a collateral attack on his sentence in the criminal proceedings. The government has moved to dismiss Lewis’s Section 2255 petition on the basis of Lewis’s waiver of the right to bring a collateral attack on his sentence in the plea agreement between Lewis and the government. In the motion the government requests that, until the matter of the

validity of Lewis's waiver of his right to bring a collateral attack on his sentence is resolved, the Court enter a partial stay of these proceedings with respect to a response to the other grounds for Section 2255 relief set out in Lewis's petition. The Court concurs in the government's request. Accordingly, it is hereby **ORDERED** that the government's obligation to respond to Lewis's grounds for Section 2255 relief apart from the validity of the waiver of collateral attack in the plea agreement between Lewis and the government is **STAYED** pending the disposition of the government's motion to dismiss. In the event the Court denies the government's motion to dismiss, the government will be given leave to supplement its response to Lewis's Section 2255 petition. It is **further ORDERED** that Lewis shall file a response to the government's motion to dismiss Lewis's Section 2255 petition not later than **thirty (30) days** from the date of entry of this Order.¹

IT IS SO ORDERED.

DATED: October 20, 2010

/s/ G. Patrick Murphy
G. PATRICK MURPHY
United States District Judge

1. The Court notes that Lewis's counsel have moved to withdraw from this case. *See* Doc. 12. If Lewis's attorneys are given leave to withdraw from this case, Lewis may wish to request a reasonable extension of time to respond to the government's motion to dismiss his Section 2255 petition so that he can procure new counsel or prepare a pro se response to the government's motion.