

**THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,)	
)	
v.)	ID#: 1101004755
)	
MICHAEL L. CHURCH,)	
Defendant.)	

ORDER

**Upon Defendant’s Motion for Appointment of Counsel under
Rule 61 (e)(1) – *DENIED*.**

1. Defendant appears to be trying to take advantage of Superior Court Criminal Rule 61's recent modification¹ mandating appointment of counsel in some cases.

2. Defendant, however, does not fit under the modified rule.

3. The case’s substance and history have been addressed repeatedly since Defendant pleaded guilty on September 20, 2011, the day set for his trial on sex

¹ “The court will appoint counsel for an indigent movant’s first postconviction proceeding. For an indigent movant’s second or subsequent postconviction proceedings, the court will appoint counsel only in the exercise of discretion and for good cause shown, but not otherwise. Unless the judge appoints counsel for a limited purpose, it shall be the duty of counsel to assist the movant in presenting any substantial ground for relief available to the movant. Upon entry of a final order in a postconviction proceeding, counsel’s continuing duty shall be provided in Supreme Court Rule 26.” *Super. Ct. Crim. R. 61(e)(1)*.

offenses involving a child.²

4. In summary, according to the victim and the circumstantial evidence, including DNA, Defendant impregnated his fifteen-year old stepdaughter.

5. For several reasons, Defendant is not entitled to appointment of counsel. First, he pleaded guilty. Before the court accepted his plea, it conducted an extensive *voir dire*, which it has discussed previously.³ Also, Defendant took no direct appeal from the plea's entry, and he thereby defaulted on his opportunity to challenge the plea. Moreover, this is not Defendant's first motion for postconviction relief. The court summarily dismissed his first motion and Defendant did not take a direct appeal from the dismissal.⁴

6. Finally, while Defendant argues that appointment of counsel is in the interest of justice, it is not. That finding is based on the reasons set-out at length in the earlier denials of Defendant's motions for withdrawal of guilty plea, reconsideration, and postconviction relief.

² *State v. Church*, 2012 WL 1413978 (Del. Super. Feb. 15, 2012) (Silverman, J.); *State v. Church*, 2012 WL 1415763 (Del. Super. Mar. 2, 2012) (Silverman, J.); *State v. Church*, 2013 WL3422490 (Del. Super. June 25, 2013) (Silverman, J.).

³ *State v. Church*, 2012 WL 1413978 (Del. Super. Feb. 15, 2012) (Silverman, J.).

⁴ *State v. Church*, 2013 WL3422490 (Del. Super. June 25, 2013) (Silverman, J.).

7. As explained above, and in the earlier decisions, Defendant's September 9, 2013 motion for appointment of counsel – **DENIED**.

IT IS SO ORDERED.

Date: September 23, 2013

/s/ Fred S. Silverman
Judge

cc: Prothonotary (Criminal)
Annemarie Hayes, Deputy Attorney General
Michael L. Church, Defendant