

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

STATE OF DELAWARE,)	
)	
V.)	I.D. Nos.: 0504007841
)	IN05-04-2023-R1
RAYMOND G. BUTLER,)	
)	0505010296
Defendant.)	IN05-05-1666-R1

ORDER

1. In 2006, Defendant pled guilty to Possession of a Controlled Substance within 300 Feet of a Park and (in a second case) Trafficking in Cocaine. He has since completed the sentences imposed in those cases.

2. Butler is now awaiting sentencing on federal drug charges. Because of his Delaware convictions, Butler faces enhanced punishment for his federal conviction.

3. On May 5, 2011, Butler filed a Rule 61 motion seeking to vacate his guilty pleas. A Commissioner of this court recommended dismissal of that petition because Rule 61 provides that only a person in custody or subject to future custody may bring an application under that rule. This court accepted the Commissioner's Recommendation and dismissed the matter on June 27, 2011.

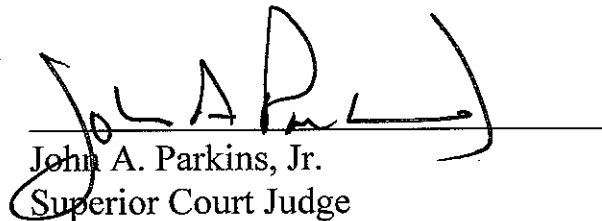
4. Butler has now re-filed the same application under the guise of Rule 57(d) which provides:

Procedure not provided. In all cases not provided for by rule or administrative order, the court shall regulate its practice in accordance with the applicable Superior Court civil rule or in any lawful manner not inconsistent with these rules or the rules of the Supreme Court.

This rule does not authorize the court to create remedies or procedures on an ad hoc basis. Rather, in “cases not provided for by rule or administrative procedure” it authorizes the court to “regulate its practice in accordance with . . . any lawful manner not inconsistent with these rules.” The rule therefore contemplates that the court as a whole, not a single judge, shall regulate the court’s practice. This judge, therefore, cannot create on his own a new remedy for Butler under the guise of Rule 57(d).

Defendant’s motion is therefore **DENIED**.

Dated: July 20, 2011



John A. Parkins, Jr.
Superior Court Judge

oc: Prothonotary

cc: Matthew B. Frawley, Esquire - Attorney for the State
Raymond G. Butler, *pro se* defendant