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Stun-belt use at trial leads to reversal in murder case

State's high court

rules in Dunkirk death

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NEWS STAFF REPORTER

The state's highest court on Tuesday voided a Chautauqua County murder conviction because the judge forced the defendant to wear an electronic "stun belt" during his trial.

Ingvne "Pete" Buchanan, 46, of Dunkirk, complained that the judge violated his rights to due process by making him wear the 50,000-volt belt during the June 2000 trial. The state Court of Appeals agreed.

"We have no doubt that there are cases in which a court may properly find, considering the nature of the charged offense, the defendant's history and other relevant factors, that a stun belt is necessary," the high court wrote, "but those factors must be considered before that finding is made."

Buchanan was convicted of the November 1998 strangulation of a 14-year-old Dunkirk girl whom police described as a family friend. He was sentenced to 25 years to life in prison by Chautauqua County Judge John T. Ward.

On Tuesday, Ward told the Buffalo News that, since 2000, his standard policy has been to make all homicide defendants wear the stun belt during trials. He said a deputy from the Chautauqua County Sheriff's Office sits behind the defendant, ready to push a button that will unleash a charge of electricity to incapacitate him if he becomes unruly.

He said he believes that the practice has discouraged defendants from causing trouble in court. He said deputies have never had to activate the stun belt during any of his trials.

But because of Tuesday's ruling, Ward said, he is changing that policy. "I had done this on the advice of the sheriff . . . for security reasons," he said. "As of today, I will look at each situation on a case-by-case basis, confer with security people and put all of my reasons on the record if we do [use the belt]."

Buchanan's attorney, Thomas P. Theophilos of Buffalo, said he knows of

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no other court in New York state where homicide or violent crime defendants are routinely ordered to wear stun belts during trials.

"This is the first ruling of its kind in the state, a groundbreaking ruling," Theophilos said.

Wearing the belt made Buchanan irritable, nervous and unfocused during the trial, which made it impossible for him to participate in his own defense, Theophilos said.

"The defendant's ability to concentrate on the trial is impaired because he is worrying that the deputy sitting behind him could accidentally or otherwise activate this shock belt and zap him with 50,000 volts of electricity," he said.

According to transcripts from the trial, Buchanan asked the judge why he had to wear the belt when he hadn't caused

any trouble in court.

"I have done nothing to warrant this," Buchanan said.

"I can't disagree with you. You have not done anything to warrant that," Ward responded. "I have to rely on . . . the security experts."

The judge later added: "The only thing I can tell you, Pete, [is] I think an innocent man on trial for murder is more dangerous than a guilty one."

State Supreme Court Justice Richard C. Kloch Sr., who oversees all the state's criminal courts in Western New York, said he is unaware of any other court where stun belts are routinely used on prisoners during trials.

Kloch said he agrees that such security matters should be handled on a case-by-base basis.

Tuesday's ruling angered Chautauqua County Sheriff Joseph A. Gerace who called it "ridiculous."

"People who make rulings

like this don't live in the real world," Gerace said. "Trying this case again, bringing this guy back to town, is going to be a huge expense for the taxpayers. This ruling doesn't change any of the facts that were presented to the jury at the trial."

Ward recalled in an interview that police had told him that Buchanan — described by Gerace as a big, powerfully built man — had physical confrontations with jail deputies before the trial.

He said the use of the stun belt also saves the taxpayers money because only two deputies need to be present at a trial. In most trials involving violent crimes, at least four deputies would be present, he said.

"The stun belt is worn under the shirt and isn't visible to the jury," Ward said. "If you have a defendant in shackles, the jury sees them."

Ward has been a county judge for 17 years, and he was Chautauqua County's district

attorney for 15 years before that.

The Court of Appeals said it is wrong to subject a defendant to such extreme security measures unless there is good reason to believe the defendant will become violent in court.

"[We] conclude as a matter of New York law that it is unacceptable to make a stun belt a routine adjunct of every murder trial, without a specifically identified security reason," the court wrote.

A jury convicted Buchanan of strangling Aiysha Barksdale of East Lake Road, Dunkirk. A hunter found her body in November 1998 off Urban Road in Dunkirk. Investigators described Buchanan as a longtime friend of the girl's family.

Before the murder, Buchanan had convictions for robbery, assault and sexual misconduct, and he had served prison time for a bank holdup, Gerace said.

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