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## Court Grants New Trial

### Murder Suspect Forced To Wear Shock Belt In Courtroom Will Have Case Heard Again

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A Dunkirk man convicted of murder will get a second chance to prove his innocence thanks to a recent appeals court ruling.

Ingvue "Pete" Buchanan

was accused of strangling 14-year-old Aiysha Barksdale in 1998 over \$400 worth of marijuana, and although he was found guilty by a jury in 2000, the New York State Court of Appeals has ruled that since he was forced to wear a stun belt due to the

court's blanket policy, he is entitled to a new trial.

The stun belt is a device which, until the recent ruling, was used by Chautauqua County Court Judge John T. Ward in cases he deemed "serious" in nature, such as murder.

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Read the entire N.Y. Court of Appeals ruling at  
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## Trial: Judge Denied Removal Of Belt

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When Buchanan asked for the belt to be removed in his original trial, Ward denied the request at the recommendation of Chautauqua County Sheriff's deputies and said, "This is something I would do for anybody charged with murder."

Buchanan and his attorney, Thomas Theophilos of Buffalo, took the case to the highest court in New York and won.

The implications of the ruling may spread much wider than Buchanan having a second chance at a trial, as it impacts the ability of every court in the state to use such a device.

"It means judges will not be allowed to put stun belts on people just because of a murder charge — they will need a better argument than that," Theophilos said. "In theory, it could be used in a case where a defendant is charged with a non-violent crime if they have tried to escape or had issues with violence in jail."

What began as a murder prosecution by then-District Attorney James Subjack progressed to become a case of first impression by the state's highest court. And the Buchanan case has become the second case that the current district attorney, David Foley, will have to re-prosecute.

"This case presents the same challenges as any case that is old," he said. "You have to locate and serve a number of witnesses and there are a number of issues you have to overcome. Obviously I'm disappointed with the court's decision, and still

believe that the stun belt didn't prevent Mr. Buchanan from defending himself properly at trial."

Theophilos said the stun belt prevented Buchanan from having a clear shot at defending himself, and equated its use to an officer holding a gun to his head at trial.

"Even if it's the most highly trained officer in the world, are you comfortable defending your life as he has his finger on the trigger?" he said. "Basically an officer sits behind the defendant with his finger on the button and at any second, he could send the defendant to the ground shaking in front of the jury. I know that possibility would affect my ability to concentrate."

Foley said even though the court ruled in favor of Buchanan's argument, he believes they should have applied a harmless error standard, which would have used the clarified rule going forward without granting him a new trial.

"They didn't find that the jury was prejudiced or that there was a malicious intent — they only clarified that the court must enter into the record substantial reason for using such a device," he said. "Going through another trial is something that will cost the taxpayers of Chautauqua County money, again."

Sometime soon, Buchanan will be transported from the Attica Correctional Facility back to the Chautauqua County Jail in Mayville, where he will be held awaiting a new trial.