

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Rockingham County

Rockingham Superior Court

State v. Brandon M. Castiglione

218-2019-CR-01132

ORDER ON ELECTRONIC RESTRAINT IN THE COURTROOM

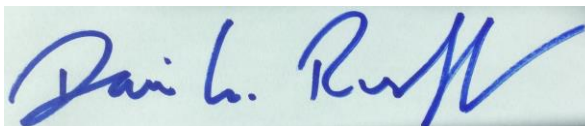
After a hearing, and for the reasons articulated on the record, the Court is not allowing the use of the electric-shock ankle device during the trial in this matter. The defense reports that the wearing of the device will create great anxiety while in court. The defendant's ability to think clearly and assist his attorneys is an issue in this case, given the history of the competency (to stand trial) litigation. Given that there is an OFE recommendation to take measures to manage the defendant's in-court anxiety, thus increasing his ability to concentrate on his defense, adopting measures to further that end seem reasonable.

The Court is also persuaded because the State could not articulate any particular risk posed by the defendant (other than the severity of the charge). He does not have a significant criminal history, has no history of acting out (or even being disrespectful) while in the courthouse setting. Thus, while the Sheriff's request to have the device placed on the defendant is very understandable, the Court finds, on balance, it is not necessary at this time and the State has not succeeded in establishing "manifest need."

On this exact issue, the NH Supreme Court has held: "requiring an unwilling defendant to wear a stun belt during trial may have significant psychological consequences that may pose a far more substantial risk of interfering with a defendant's right to confer with counsel than do leg shackles, we emphasize that stun belts should be used as rarely as possible." State v. Eschenbrenner, 168 N.H. 314 (2015) (cleaned up).

Given this behest from the high court, the Court will prohibit the use of the device (as stun anklet) unless the defendant's behavior – going forward – warrants it.

The sheriff is free to staff the trial with extra deputies – preferably in plain clothes – in the courtroom if he deems it necessary.



Date: May 8, 2023

Hon. David W. Ruoff
Rockingham County Superior Court

Clerk's Notice of Decision
Document Sent to Parties
on 05/09/2023