

=====
This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 73 SSM 31
The People &c.,
Respondent,
v.
Robert J. Cooke,
Appellant.

Submitted by Mary P. Davison, for appellant.
Submitted by John C. Tunney, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

The trial court's failure to make a finding of
necessity for the stun belt's use does not constitute an
unwaivable mode of proceedings error (see People v Buchanan, 13

NY3d 1, 4 [2009]; see generally People v Hanley, 20 NY3d 601, 604 [2013]; People v Schrock, 108 AD3d 1221, 1224-1225 [4th Dept 2013], lv denied 22 NY3d 998 [2013], reconsideration denied 23 NY3d 1025 [2014]; see also People v Gamble, 18 NY3d 386, 396-397 [2012], rearg denied 19 NY3d 833 [2012]). Thus, as defendant never objected, and indeed expressly consented to wearing a stun belt at trial, he waived his contention that he was denied a fair trial on the ground that he was restrained by means of that security device (see People v Iannone, 45 NY2d 589, 600 [1978]; cf. Buchanan, 13 NY3d at 3). We have considered defendant's remaining contentions and find them to be without merit.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Read, Pigott, Rivera, Abdus-Salaam and Stein concur. Judge Fahey took no part.

Decided February 24, 2015