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NO. 50946-6-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

In re Detention of Timothy McMahon,

STATE OF WASHINGTON,

Respondent,

v.

TIMOTHY MCMAHON,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR CLARK COUNTY

The Honorable John P. Fairgrieve,

BRIEF OF APPELLANT

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A. ASSIGNMENTS OF ERROR

1. The assistant attorney general committed misconduct in urging the jury to rely on an unsupported basis for civil commitment.

2. Appellant's constitutional right to effective assistance of counsel was violated when his attorney failed to object to prosecutorial misconduct.

3. The court erred in ordering appellant's civil commitment under chapter 71.09 RCW.

Issues Pertaining to Assignments of Error

1. Civil commitment under chapter 71.09 RCW requires proof beyond a reasonable doubt that the person suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined. The State's expert testified that pedophilic disorder, antisocial personality disorder, or both together caused that difficulty. The defense expert testified appellant acted out because of alcoholism but was not predisposed to sexual violence. In closing, the State argued that, if appellant's alcoholism caused his prior sex offenses, then it was a mental abnormality under the statute. Did the assistant attorney general commit misconduct by urging the jury to commit appellant on a basis unsupported by the testimony at trial?

2. Respondents in civil commitment proceedings under chapter 71.09 RCW have the right to effective assistance of counsel. Counsel for appellant failed to object or request a curative instruction when the assistant attorney general argued the jury could rely on a mental abnormality that was not designated as such by either of the testifying experts. Was appellant deprived of his right to effective assistance of counsel?

B. STATEMENT OF THE CASE

1. Procedural Facts

The State of Washington, via the attorney general, filed a petition to have appellant Timothy McMahon civilly committed under chapter 71.09 RCW. CP 1-2. At trial, McMahon did not dispute he had been previously convicted of a sexually violent offense. However, he argued he did not have a mental abnormality that made it more probable than not that he would commit predatory sexual offenses in the future. The jury found McMahon met commitment criteria, and the court ordered him committed. CP 229, 230.

2. Substantive Facts

At trial, McMahon described a history of problematic behavior beginning when he was an adolescent. He had tried many times but was unable to control his drinking for any significant amount of time. RP 228.

When he drank, he was subject to amnesia-like blackouts. RP 228. He was repeatedly charged with being a minor in possession of alcohol, with various alcohol-related traffic infractions, and later with assaults after getting into fights at bars. RP 143-44, 152-54, 155, 162. An incident he described as mere panhandling resulted in charges for robbery and theft. RP 163-66.

In 1985, at age 24, he was charged with indecent liberties against a child under 14 years of age. RP 191-94; Exs. 6-10. He explained in his videotaped deposition that his then-wife's daughter came in to wake him up and poked him in a private part. RP 199. He denied anything else ever happened. RP 195. Nevertheless, he served 12 months in prison, during which time he and his wife divorced. RP 202, 204.

In 1996, he was charged with molesting a friend of his girlfriend's daughters. RP 205-06. He could not explain the allegations and could not recall doing anything except moving the girl's nightgown back to make fun of her large feet. RP 206-07. He again went to prison. While he was incarcerated in 1997, he and his girlfriend married and remained married at the time of trial. RP 204-05. In 2000, he returned home to her and her three daughters. RP 213. In 2004, the three daughters also accused him of molestation. RP 214. McMahon testified this was due to the girls being upset that he expected them to help around the house. RP 220. He pled guilty because he knew he would not be believed and wanted to make it easier for

his family. RP 222. One of his wife's daughters testified at the commitment trial. RP 107-09. She described one instance in which he rubbed her genitals and a few more occasions on which he exposed his naked penis to her. RP 107-09, 138. She testified he did not ever touch her after he was released from prison in 2000. RP 139.

In recent years, McMahon testified, he has finally been able to achieve lasting sobriety. RP 236. His last drink was September 11, 2004. RP 236. He hit rock bottom and knew he had to stop. RP 238. Despite the availability of contraband drugs and alcohol in prison and at the Special Commitment Center (SCC), he has chosen not to partake. RP 236-38. Incarcerated since 2004, he has earned all his good-behavior time, and has had only a few minor prison infractions – none involving drugs or alcohol. RP 238-40.

McMahon has strong support from family and friends in his community. His aunt and uncle have stayed in contact while he was in prison. RP 246-47. Aware of his convictions, they are nonetheless offering assistance with finances and transportation and will make him part of their family and church community upon his release. RP 456-57, 472-73. His former employer, also aware of his history, is willing to re-hire him upon release. RP 528-29, 530-31. McMahon plans to attend AA meetings and sex offender treatment, on an outpatient basis so that he can also earn a living.

RP 249. A friend has purchased a motor home where McMahon can live until he gets back on his feet. RP 503. Like McMahon, his friend is a recovering alcoholic, sober since 2008. RP 500-01.

While at the SCC, McMahon has participated in the counselor-assisted self-help group (CASH), a class focusing on drugs and alcohol. RP 549. Over time, his counselor testified, McMahon's group participation has significantly improved. RP 557-61. Hesitant at first, McMahon now makes good eye-contact, gives feedback to others, expresses appreciation, and appears genuinely interested in what is going on. RP 557-59. The counselor explained that recovery is a lifelong process, and, although McMahon has not yet achieved maximum benefit from the CASH class, he seems to have "joined that walk." RP 561.

Forensic psychologist Dr. Mark Patterson testified McMahon suffers from pedophilic disorder and antisocial personality disorder, both of which predispose him to sexual violence and are mental abnormalities under the statute. RP 340-44. He also diagnosed McMahon with exhibitionistic disorder, alcohol use disorder, and cannabis use disorder. However, he did not testify these other disorders amounted to a mental abnormality under the statute. RP 340-44. He told the jury alcohol use could be a significant contributor to the inability to control behavior, but he did not testify it amounted to a mental abnormality or personality disorder under the statutory

definitions. RP 344-45. Patterson also identified alcohol use as a dysfunctional coping mechanism that contributes to his opinion that McMahon's risk of committing a new sex offense is more probable than not.¹ RP 372.

Defense expert Dr. Brian Abbott disputed Patterson's diagnoses. He rejected the personality disorder because there was no evidence of a conduct disorder before age 15, as required by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-V), used by psychologists to diagnose mental disorders. RP 622, 624-26. He also noted that a person with a true personality disorder would not be able to survive more than a decade of incarceration with only a few minor infractions, as McMahon has. RP 614. He rejected the pedophilia diagnosis because there was no evidence of the persistent urges or fantasies that characterize the disorder and because penile plethysmograph testing in 1986 and 2017 showed no deviant arousal pattern. RP 605, 710-11.

The defense theory was that McMahon does not suffer from pedophilic disorder or antisocial personality disorder and his alcohol use disorder, which was responsible for his acting out in many ways, including sexually, is in remission. RP 842, 846-47. Abbott testified that, while alcohol

¹ Patterson relied on several different assessment tools in addition to his own clinical judgment to opine that McMahon's mental abnormality and/or personality disorder made it more probable than not that he would commit sexually violent offenses if released. RP 351-69.

use disorder is a congenital or acquired condition, it is not a mental abnormality. RP 615. Moreover, because it is in remission, it is not a disorder from which McMahon currently suffers. RP 619. He attributed McMahon's illegal behavior, most of which was nonsexual in nature, to his severe alcohol use disorder, currently in remission. RP 615, 619.

On cross examination, the assistant attorney general brought up aspects of Abbott's report in which he described McMahon's alcohol use disorder as "leading him to act irresponsibly and impulsively in managing his sexual impulses through the sexual offending behavior towards the victims." RP 716. Then, in closing argument, the State argued this testimony showed that alcohol use disorder was a mental abnormality because it predisposed McMahon to commit sex offenses. RP 833.

C. ARGUMENT

1. THE ATTORNEY GENERAL COMMITTED MISCONDUCT BY URGING THE JURY TO COMMIT MCMAHON ON A LEGALLY INVALID BASIS.

Civil commitment under chapter 71.09 RCW is only valid if premised on proof beyond a reasonable doubt that the person has a mental abnormality that makes that person likely to commit predatory sex offenses. RCW 71.09.020(18); RCW 71.09.060. Here, the assistant attorney general encouraged the jury to rely on alcohol use disorder as the mental abnormality for civil commitment, despite the absence of any expert testimony

supporting that conclusion. RP 833. To urge the jury to render a verdict on a legally insufficient basis was prosecutorial misconduct that violated McMahon's right to a fair trial.

- a. Civil commitment requires proof of a mental abnormality that makes the person likely to commit sexually violent offenses.

Chapter 71.09 RCW is a statutory framework providing for potentially indefinite (with yearly evaluation) civil commitment of those found to be sexually violent predators. The law defines sexually violent predator as a "person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility." RCW 71.09.020(18). A commitment order may result only if the State proves the existence of a mental abnormality that makes the person likely to commit sexually violent offenses. RCW 71.09.060.

A mental problem that causes the person to act out in general is insufficient to support civil commitment under chapter 71.09. For example, a personality disorder that predisposes a person to break laws in general, does not qualify a person for civil commitment. See, e.g., State v. Donald DD., 24 N.Y.3d 174, 189-91, 21 N.E.3d 239, 996 N.Y.S.2d 610 (2014) (antisocial personality disorder, standing alone, establishes only a general tendency

toward criminality, does not predispose the person to committing a sex offense, and has no necessary relationship to a difficulty in controlling sexual behavior). By some estimates, 40 to 60 percent of prison inmates suffer from a personality disorder. Kansas v. Crane, 534 U.S. 407, 412, 122 S. Ct. 867, 151 L. Ed. 2d 856 (2002) (citing Moran, The Epidemiology of Antisocial Personality Disorder, 34 Social Psychiatry & Psychiatric Epidemiology 231, 234 (1999)). This large percentage of the prison population is not the target of chapter 71.09 RCW's commitment scheme.

To survive constitutional scrutiny, civil commitment laws must “distinguish the dangerous sexual offender whose serious mental illness, abnormality, or disorder subjects him to civil commitment from the dangerous but typical recidivist convicted in an ordinary criminal case.” Crane, 534 U.S. at 413. Thus, Washington's civil commitment law is premised on the idea that there is a small group of offenders who are both mentally ill and extremely dangerous in specifically sexual ways. RCW 71.09.010. The law is aimed at civil commitment for that small group of offenders, not the large portion of the prison population that may be inclined to break the law due to a personality disorder.

Washington law defines a mental abnormality as “a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree

constituting such person a menace to the health and safety of others.” RCW 71.09.020(8). By law, civil commitment requires proof that the person has such a mental abnormality or a personality disorder and that the abnormality or disorder “makes the person likely to engage in predatory acts of sexual violence if not confined.” RCW 71.09.020(18). “Likely to engage in predatory acts of sexual violence if not confined in a secure facility” means the person “more probably than not will engage in such acts if released.” RCW 71.09.020(7). At trial, the existence of a mental abnormality, and the fact that it causes this precise type of risk, must both be established by proof beyond a reasonable doubt. RCW 71.09.060.

- b. The jury is not permitted to act as a pseudo-scientific expert and create its own mental abnormality.

Proof beyond a reasonable doubt of a mental abnormality requires expert testimony because such questions are beyond the ken of lay jurors. In general, expert testimony is required when an essential element in the case is best established by information that is beyond the expertise of a layperson. Berger v. Sonneland, 144 Wn.2d 91, 110, 26 P.3d 257 (2001); Harris v. Robert C. Groth, M.D., Inc., 99 Wn.2d 438, 449, 663 P.2d 113 (1983). “Medical facts in particular must be proven by expert testimony unless they are observable by a layperson’s senses and describable without medical

training.” Harris, 99 Wn.2d at 449 (citation, internal quotation marks and brackets omitted).

In a chapter 71.09 RCW proceeding, psychiatric testimony is central to the ultimate question of whether a person suffers from a mental abnormality and for this reason is helpful to the trier of fact. In re Pers. Restraint of Young, 122 Wn.2d 1, 58, 857 P.2d 989 (1993); In re Detention of Twining, 77 Wn. App. 882, 890, 894 P.2d 1331 (1995)**Error! Bookmark not defined..** The entire reason for expert testimony on matters requiring “scientific, technical or other specialized knowledge” is to “assist the trier of fact to understand the evidence or to determine a fact in issue.” ER 702.

Expert testimony is required to prove a mental abnormality under chapter 71.09 RCW because determining whether a particular person possesses a mental abnormality “is based upon the complicated science of human psychology and is beyond the ken of the average juror.” In re Detention of Bedker, 134 Wn. App. 775, 779, 146 P.3d 442 (2006).² A jury does not possess the specialized knowledge or medical training necessary to formulate its own diagnosis of unquestionably complex psychological processes. Harris, 99 Wn.2d at 449. Similarly, a jury does not possess the

² See also In re Detention of Thorell, 149 Wn.2d 724, 761-62, 72 P.3d 708 (2003) (expert testimony providing diagnosis of mental abnormality and linking abnormality to serious lack of control, gave jury sufficient evidence to commit under chapter 71.09 RCW); In re Detention of A.S., 138 Wn.2d 898, 915 n.7, 982 P.2d 1156 (1999) (physician testimony necessary to diagnose person with “mental abnormality” in involuntary commitment proceeding under Chapter 71.05 RCW).

specialized knowledge or medical training necessary to predict whether a given mental abnormality would predispose a person to commit predatory sex offenses.

In proving a mental abnormality, the State, and its experts, are not limited to reliance on disorders included in the DSM. Young, 122 Wn.2d at 28. But jurors, by contrast, *are* limited to disorders and theories of causation supported by the expert testimony presented at trial because their decision must be based on the evidence, not their own speculation. See Schmidt v. Pioneer United Dairies, 60 Wn.2d 271, 276, 373 P.2d 764 (1962) (“A verdict cannot be founded on mere theory or speculation.”); Prentice Packing & Storage Co. v. United Pac. Ins. Co., 5 Wn.2d 144, 164, 106 P.2d 314 (1940) (“The law demands that verdicts rest upon testimony, and not upon conjecture and speculation.”).

- c. No expert testimony supported the idea that McMahan’s alcohol use disorder amounted to a mental abnormality under the statute.

There was no evidence that alcohol use disorder could predispose anyone, or did predispose McMahan, to committing acts of sexual violence. There was no expert testimony that alcohol use could amount to a mental abnormality as defined by law and required for civil commitment.

The State’s expert, Dr. Patterson, did not describe alcohol use disorder as a mental abnormality. He opined that McMahan’s pedophilic

disorder or antisocial personality disorder or the combination of the two amounted to the “mental abnormality or personality disorder” required by the law. RP 340-44. Alcohol use was merely an additional diagnosis and a factor in his risk assessment. RP 340-45, 372.

The defense expert, Dr. Abbott, expressly rejected the idea that McMahon’s alcohol use disorder could amount to a mental abnormality under the statute. RP 615. First, the disorder was not current: “My opinion at this point is he does not suffer from severe alcohol use disorder, currently.” RP 618-19. Moreover, Abbott explained the likelihood of complete remission was increasing with McMahon’s advancing age. RP 616-17. Even if the alcohol use disorder were current, Abbott was not of the opinion that it amounted to a mental abnormality under the statute. RP 615.

Even if the alcohol use disorder could appear to meet the statutory definition of a mental abnormality, that would still be insufficient to support commitment. The commitment law requires proof of a cause-and-effect relationship between the mental abnormality and a greater than 50 percent probability the individual will commit future acts of predatory sexual violence. Thorell, 149 Wn.2d at 737. No evidence supports a causal link between McMahon’s alcoholism and his risk of committing future sex offenses.

Under the evidence presented, the only disorders that could form a valid basis for commitment were pedophilic disorder or antisocial personality disorder. The idea that any other disorder could amount to a mental abnormality would be pure speculation by the jury. The jury is not permitted to disregard all expert testimony and decide, without any supporting evidence, that alcohol use disorder predisposes a person to sexual violence. See Bedker, 134 Wn. App. at 779. Yet the State's closing argument urged the jury to do just that.

- d. The assistant attorney general committed misconduct by urging the jury to commit based on a disorder that was not supported by expert testimony.

Despite the absence of expert testimony, the assistant attorney general told jurors McMahon should be committed on the basis of alcohol use disorder. RP 833. She seized on Abbott's testimony that alcohol use disorder caused impulsivity and was likely responsible for McMahon's prior criminal behavior, including acting out sexually. RP 615. She led jurors through the statutory definition of a mental abnormality and told the jury, "Sounds like a mental abnormality to me. So we can go ahead and check off that box." RP 833. This argument was prosecutorial misconduct that deprived McMahon of a fair trial because it urged the jury to commit him on a legally invalid basis.

In proceedings under chapter 71.09 RCW **Error! Bookmark not defined.**, Washington courts have applied the criminal standard for prosecutor misconduct. See, e.g., In re Detention of Sease, 149 Wn. App. 66, 80-81, 201 P.3d 1078 (2009); In re Detention of Gaff, 90 Wn. App. 834, 954 P.2d 943 (1998). A prosecutor may not make arguments that are not supported in the record or encourage the jury to render a verdict on facts not in evidence. State v. Dhaliwal, 150 Wn.2d 559, 577, 79 P.3d 432 (2003); State v. O'Neal, 126 Wn. App. 395, 421, 109 P.3d 429 (2005); State v. Stover, 67 Wn. App. 228, 230-31, 834 P.2d 671 (1992). Nor may a prosecutor encourage the jury to reach a verdict based on speculation and conjecture. See Schmidt, 60 Wn.2d at 276; Prentice Packing & Storage Co., 5 Wn.2d at 164.

The assistant attorney general here suggested jurors in this case could act as do-it-yourself psychologists and commit McMahan with mix - and-match findings that finding the alcohol use disorder was a mental abnormality and McMahan was likely to reoffend based on Patterson's risk analysis. RP 966-67, 1012-13. This approach misleads the jury and misstates the law because it essentially reads the causation requirement out of the statute. If it followed the State's suggestion, the jury would rely on a mental disorder unhitched to any expert risk assessment and a risk analysis unmoored from any mental abnormality.

Without expert testimony linking alcohol use disorder to the risk required for commitment, the jury's finding on the essential element of causation would be pure speculation. The jury had to decide whether to believe Patterson's diagnoses and risk assessment. But jurors were not free to invent their own. Yet the State told jurors they could do just that. The improper closing argument encouraged the jury to render a verdict based on speculation rather than the evidence and relieved the State of its burden to prove the causal link beyond a reasonable doubt.

e. Prosecutorial misconduct requires reversal of the commitment order.

The State's misrepresentation regarding a legally invalid basis for commitment requires reversal of the commitment order because it was designed to and likely did induce the jury to render a verdict on an improper basis.

As in criminal cases, prosecutorial misconduct in a civil commitment case requires reversal when there is a substantial likelihood it affected the verdict. State v. Salas, 1 Wn. App. 2d 931, 939, 408 P.3d 383 (2018); Sease, 149 Wn. App. at 81. When there was no objection to the improper conduct during the trial, reversal is still required when the misconduct was so flagrant and ill-intentioned as to be incurable by an instruction to the jury. Id. The assistant attorney general's closing

argument here meets this standard because it presented to the jury an attractive, but legally invalid way to harmonize the testimony of the two disputing experts.

Under the facts, the jury was likely to view alcohol use disorder as the only mental disorder that both experts agreed on. The other diagnoses relied on by Patterson alone were strongly disputed by the defense expert. RP 612, 614. Abbott testified Patterson's diagnoses did not meet the actual diagnostic requirements. *Id.* But both agreed that McMahon had, at least at some point in his life, suffered from severe alcohol use disorder. RP 312, 614. McMahon's own testimony also clearly showed a history of damaging alcohol use. RP 226-30. Given such a battle of the experts, the jury was likely to seize at a mental disorder that both sides seemed to agree on.

When gauging whether a prosecutor's argument was improper, courts look at the entire context of the case and the argument. *Salas*, 1 Wn. App. 2d at 939. Here, the larger context of the argument does not salvage it. In discussing the three elements of the definition of a sexually violent predator, the attorney general listed the mental abnormality and risk-of-re-offense elements as separate, rather than as requiring a causal link between the two. RP 825 (listing elements "that he committed his sexually violent offense, he has a mental abnormality that causes him serious difficulty

controlling his sexually violent behavior, and he's likely to re-offend if not confined to a secure facility.”). After telling the jury that Abbott's testimony showed alcohol use disorder was a mental abnormality, the assistant attorney general simply continued on to the element of “likely to reoffend if not confined or in a secure facility” with no mention of a causal link between the two. RP 833. She immediately transitioned to discussing the results of Patterson's risk analysis. RP 834. Throughout her discussion of the risk assessments of both Patterson and Abbott, she made no mention of any causal link to any mental abnormality. RP 834-37.

The jury's questions also indicated it was inclined to view alcohol use disorder as a basis for commitment. One juror wrote a question for Patterson about the effects of alcohol use disorder on a person's thought processes. CP 204. This question suggests that juror was attempting to determine whether alcoholism could cause the impairment of emotional or volitional control required for a mental abnormality under the statute. The State's improper argument supplied the jury with the wrong answer.

McMahon did not receive a fair trial when the State encouraged the jury to rely on a basis for commitment that was unsupported by the record. The likelihood is great that the jury relied on its own speculation, rather than expert testimony, to commit McMahon. The order committing him should be reversed.

2. COUNSEL WAS INEFFECTIVE IN FAILING TO OBJECT TO PROSECUTORIAL MISCONDUCT THAT ENCOURAGED JURY SPECULATION AND RELIEVED THE STATE OF ITS BURDEN TO PROVE CAUSATION.

Respondents in civil commitment proceedings under chapter 71.09 RCW enjoy a statutory right to effective assistance of counsel at all stages of the proceedings. RCW 71.09.050(1); In re Detention of Petersen, 138 Wn.2d 70, 92, 980 P.2d 1204 (1999). Courts apply the test from Strickland v. Washington that pertains in the criminal sphere. In re Detention of Stout, 128 Wn. App. 21, 27-28, 114 P.3d 658 (2005) (discussing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)). The “right to counsel is meaningless unless it includes the right to effective counsel.” State v. Ransleben, 135 Wn. App. 535, 540, 144 P.3d 397 (2006).

- a. Reasonable trial counsel would have objected.

It was unreasonable to fail to object to the improper closing argument because it permitted the jury to commit on an invalid basis. McMahon’s theory of the case was that his prior sex offenses were part of a pattern of impulsive conduct, not specific to sex offending, that was caused by his alcohol use disorder, which was in remission at the time of trial and did not cause a significant future risk of predatory sex offenses. The assistant attorney general attempted to hijack this argument to

persuade jurors that, even if they believed the defense expert that McMahon's only diagnosis was alcohol use disorder, they could still vote to commit him. There was no possible strategic reason for letting such a distortion of the defense theory, and the law, stand in the minds of the jury. If this court finds the misconduct could have been cured by the court instructing the jury, then counsel was ineffective in failing to object and request such an instruction.

b. The State's argument likely misled the jury about what it needed to find to commit McMahon.

Prejudice exists, and reversal is required when it is reasonably probable that, without counsel's error, the outcome of the trial would have been different. Strickland, 466 U.S. at 694. That is the case here. First, if counsel had objected and requested a curative instruction, the court would likely have clarified to the jury that it must rely on the testimony presented at trial to find causation. Second, if the court had given an instruction, courts presume the jury would have followed it and correctly applied the law. Diaz v. State, 175 Wn.2d 457, 474, 285 P.3d 873 (2012).

However, without that clarification, there is a reasonable probability the jury rendered its verdict on an improper basis. As mentioned, the defense strongly critiqued Patterson's diagnoses on numerous grounds. RP 605, 614, 622, 624-26, 710-11. It would be reasonable for the jury to try to harmonize

the testimony and play it safe by relying on the only diagnosis both experts appeared to agree on, namely, alcohol use disorder. If some jurors found each expert persuasive, this may have seemed like a particularly appropriate way to reach a valid compromise verdict.

There is a reasonable probability that, without such an improper and unsupported compromise, the jury would not have voted to commit McMahon. Because of the reasonable probability that the verdict was based on jurors' attempting to act as psychiatrists rather than relying on the expert testimony, the commitment order should be reversed.

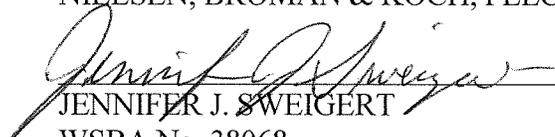
D. CONCLUSION

For the foregoing reasons, McMahon asks this Court to reverse the civil commitment order under chapter 71.09 RCW.

DATED this 21st day of May, 2018.

Respectfully submitted,

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