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

STATE OF WASHINGTON,

Respondent,

v.

ANJELA KRISTYNE S. HASSERIES,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF
KITSAP COUNTY, STATE OF WASHINGTON
Superior Court No. 18-1-01169-18

BRIEF OF RESPONDENT

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I. COUNTERSTATEMENT OF THE ISSUES

1. Whether sufficient evidence established intent to assault and the absence of self-defense?
2. Whether trial counsel was ineffective for failing to move to amend the pattern first aggressor jury instruction?
3. Whether the trial court abused its discretion by imposing conditions of supervision requiring evaluation for drug, alcohol, and mental health issues and compliance with recommended treatment?

II. STATEMENT OF THE CASE

A. PROCEDURAL HISTORY

Anjela Krystyne S. Hasseries was charged by information filed in Kitsap County Superior Court with second degree assault, domestic violence. CP 1-2. The information was later amended to include an allegation that Hasseries was armed with a deadly weapon. CP 13.

At trial, Hasseries was allowed jury instruction on self-defense. CP 58-61; *see* RP, 1/15/19, 59-60 (defense offer of proof regarding self-defense claim). These instructions included a so-called first aggressor instruction. CP 60.

The jury found Hasseries guilty of second degree assault. CP 67. The jury answered yes to each special interrogatory asking whether the

crime was domestic violence and whether Hasseries was armed with a deadly weapon during the assault. CP 68.

Hasseries received a standard range sentence, including deadly weapon enhancement, of 15 months in custody. CP 74.

B. FACTS¹

Police were called out to a case involving a weapon or serious injury. 2RP 42. The report was that a man had been stabbed with a sword by his wife. 2RP 81. Arriving at the residence, the police found a female in the house while 911 dispatch spoke to a male caller. 2RP 44. The male was holding his arm in the air with a bloody towel wrapped around it. 2RP 45. The male, Patrick Hasseries, was taken to a waiting ambulance. 2RP 46.

Officers were concerned about the safety of a minor child and swept the house. 2RP 46-47. Hasseries was directed to come out from a bedroom with her hands up. 2RP 47. She asked for a moment because she was changing clothes; the clothing she had removed had “blood covered on them.” 2RP 53. She came out and was identified by police. 2RP 48. She was detained in handcuffs. 2RP 49. It turned out that the minor child had slept through the incident. 2RP 50. Hasseries’ demeanor

¹ The defendant and the victim share the last name. Reference to the victim, Patrick Hasseries, by his first name is to avoid confusion.

was calm (“pretty mello”) upon contact. 2RP 51.

The initially arriving officer observed spots of blood on the floor of the house. 2RP 49. Further investigators described blood droplets on the floor with some footprints in the blood. 2RP 60. Investigators collected a sword that was hanging on the wall and the bloody clothing from the bedroom in which Hasseries was found. 2RP 61. The sword had some blood on it. 2RP 66. The sword was about 26 inches long. 2RP 69. The sword was described as “sharp.” 2RP 70.

The Hasseries had been married for seven or eight years and had been together for ten years. 3RP 141. At the time of trial their son was seven years old. 3RP 140. There were difficulties in the marriage and Patrick Hasseries became aware that Hasseries was having an affair with another man. 3RP 141-42.

Away from home to reflect on the situation, Patrick was told that Hasseries and her paramour were loading stuff from the house into a moving van. 3RP 145. When he got home, Patrick discovered that the washer and dryer were gone along with “the majority her personal items.” 3RP 145.

Patrick convinced Hasseries to move back to the home. 3RP 146. Patrick was hoping she would stop seeing the boyfriend and reconcile with him. 3RP 147. Hasseries told Patrick that she and her boyfriend would

continue to be just friends. 3RP 148.

On the day of the incident, Hasseries came home from work at the boyfriend's business. 3RP 148. In the evening, they were in the living room watching video. 3RP 150. She spoke of some work she was doing for the boyfriend's shop and things got heated over when she would stop working for and seeing the boyfriend. 3RP 150. She asserted that she did not intend to quit working for the boyfriend. 3RP 152. Patrick asked her to choose and Hasseries said she would not stop working for or being romantic with the boyfriend. 3RP 152.

Patrick was angry and sad. 3RP 152. Patrick questioned her presence in the home if that is how she felt. 3RP 152. She responded that her name is on the deed so she can stay and she went to find the deed. 3RP 153. Patrick had moved the box in which the deed was kept. 3RP 154. She demanded it and Patrick told her that he had hidden it so she would not abscond with it. 3RP 154.

Hasseries "let out a scream of rage." 3RP 155. She flung a box of "intimate items" across the room. 3RP 155. She threw about some laundry and Patrick told her to stop. 3RP 155. Patrick raised his hand, might have put his hand on her shoulder, and Hasseries responded by "slapping me, punching me, trying to kick me." 3RP 156. Eventually, Patrick caught her foot when she tried to kick him and was able to push

her away. 3RP 157.

Hasseries landed on the floor. 3RP 157. After a moment on the floor, Hasseries got up and continued to assault Patrick. 3RP 158. Patrick again blocked a kick by grabbing her foot and pushing her away. 3RP 158. Hasseries got up and went downstairs. 3RP 158. Patrick paused and checked to see if there was any damage. 3RP 159. He thought she would just leave the house. 3RP 159-60. He went downstairs. 3RP 160.

Patrick looked out the windows. 3RP 170. He looked around and saw Hasseries with the sword in her hands. 3RP 170. Hasseries held the sword “in an attack-ready stance, with both hands on the [hilt].” 3RP 172. (he said “blade” first and corrected on the next line). Hasseries moved closer to Patrick until he was cornered. 3RP 173. She got closer and Patrick went into a defensive stance. 3RP 174. Patrick stood with his hand extended in a defensive posture. 3RP 175.

The sword contacted Patrick’s arm. 3RP 176. The tip went in and the blade went down his arm “a couple of inches” and stopped “presumably because it was embedded in my arm.” 3RP 176. While this occurred, Patrick had never moved toward Hasseries. 3RP 176-77. He stepped back until he was cornered. 3RP 177. With his hand on the uninjured arm, Patrick reached as close to the hilt of the sword as he could attempting to wrestle the sword from her. 3RP 177. The two had a tug of

war with the sword. 3RP 177-78.

The struggle resulted in Patrick being stabbed again and getting a scrapped palm from holding the sword blade. 3RP 178. Eventually, she lost her grip on the sword and the assault stopped. 3RP 181. Patrick was bleeding profusely and feeling “shaken, shocked, in pain.” 3RP 181. Patrick “dashed” to the bathroom to retrieve a towel to address the bleeding. 3RP 182. He wrapped his arm and called 911. 3RP 182.

Patrick’s wounds resulted in a helicopter ride to Harborview hospital. 3RP 186. There, he had surgery on his arm. 3RP 187. He lost the ability to move his fingers for a few days. 3RP 187. Physical therapy over several months restored most, but not all, of his dexterity. 3RP 187.

Hasseries said that after she returned to the residence things were okay but things soon deteriorated. 4RP 268. She agrees with Patrick that the night of the incident began with them watching video together. 4RP 269. She agrees that the fomenting discussion was about her refusal to stop seeing her boyfriend. 4RP 271. Asked if she said anything rude to Patrick, she allowed that that was possible because “when I get mad I get mean.” 4RP 272.

Hasseries claimed that Patrick then told her to get out of the house. 4RP 271. She said did not have to leave and went to find the deed to the house to show that her name was on it. 4RP 272. But the document box

was missing. 4RP 272. Patrick told her that he hid the box so she looked for it. 4RP 272. Then, she claims, Patrick “put his hand on my head and threw me to the ground.” 4RP 272. She claimed that this fall caused a concussion. 4RP 274.

She got up and continued to search for the box but he hit her, kicked her, and again threw her to the ground. 4RP 275. After that, she went downstairs. 4RP 277-78. At this point she did not say anything to Patrick. 4RP 305. Hasseries alleged that Patrick then came running down the stairs with a “god awful look on his face.” 4RP 279. She “grabbed the closest thing to me to create space,” which turned out to be the sword off the mantle. 4RP 280. There was a tug-of-war between the two over the sword. 4RP 281. Suddenly, Patrick said “ow” and ran away. *Id.* She put the sword back on the mantle, observes Patrick calling 911, and began to mop up blood on the kitchen floor. 4RP 283.

III. ARGUMENT

A. THERE WAS SUFFICIENT EVIDENCE TO PROVE SECOND DEGREE ASSAULT AND TO PROVE THE ABSENCE OF SELF-DEFENSE BEYOND A REASONABLE DOUBT.

Hasseries argues that the evidence was insufficient as a matter of law to support guilt beyond a reasonable doubt. This claim is without merit.

It is a basic principle of law that the finder of fact at trial is the sole and exclusive judge of the evidence, and if the verdict is supported by substantial competent evidence it shall be upheld. *State v. Basford*, 76 Wn.2d 522, 530-31, 457 P.2d 1010 (1969). The appellate court is not free to weigh the evidence and decide whether it preponderates in favor of the verdict, even if the appellate court might have resolved the issues of fact differently. *Basford*, 76 Wn.2d at 530-31.

In reviewing the sufficiency of the evidence, an appellate court examines whether, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could find that the essential elements of the charged crime have been proven beyond a reasonable doubt. *See State v. Green*, 94 Wn.2d 216, 220, 616 P.2d 628 (1980). The truth of the prosecution's evidence is admitted, and all of the evidence must be interpreted most strongly against the defendant. *State v. Theroff*, 25 Wn. App. 590, 593, 608 P.2d 1254, *aff'd*, 95 Wn.2d 385 (1980). Further, circumstantial evidence is no less reliable than direct evidence. *State v. Myers*, 133 Wn.2d 26, 38, 941 P.2d 1102 (1997). Finally, the appellate courts must defer to the trier of fact on issues involving "conflicting testimony, credibility of the witnesses, and the persuasiveness of the evidence." *State v. Hernandez*, 85 Wn. App. 672, 675, 935 P.2d 623 (1997).

1. The evidence supports a finding of intentional assault

Taking the testimony of Patrick Hasseries in a light most favorable to the state, any reasonable jury could have found that Hasseries acted “with the objective or purpose to accomplish a result which constitutes a crime.” Hasseries made very damaging physical contact with Patrick Hasseries--while she was wielding a sharp sword, his arm was flayed open.

In considering whether she intended to flay her husband’s arm, reasonable inferences abound. Patrick Hasseries testified that after being told that he had hidden the family document box, she screamed in rage. 3RP 155. She demonstrated her mental state by throwing their belongings around the room. 3RP 155. She began to hit and kick him. 3RP 156. He pushed her away, but she came at him again requiring him to push her away a second time. 3RP 158. Hasseries fled downstairs and Patrick Hasseries thought the incident was done—he believed she would just leave. 3RP 159-60.

But when he came down-stairs he was greeted by Hasseries holding the sword in an “attack ready stance.” 3RP 170, 172. Patrick said that Hasseries then began to advance on him. 3RP 173. Eventually, he was cornered. *Id.* Patrick was preparing to defend himself, taking a defensive stance, when he was stabbed. 3RP 174. Contrary to Hasseries’

assertion that Patrick's wound resulted during a struggle for the sword (Brief at 11-12), Patrick's testimony was very clear that he had been stabbed in the arm before he reached out and grabbed the sword. 3RP 177. The struggle then ensued and Patrick was further injured. 3RP 177.

When a person who has twice assaulted another comes at him a third time, and this time armed with a deadly weapon held in an attack ready position, and recklessly inflicts substantial bodily harm, there is little other inference that can be made except that the wielder of the weapon intends in the circumstances to cause that result. This formulation includes the proper element that Hasseries "recklessly" caused substantial bodily harm, unlike Hasseries' assertion that "Patrick did not testify that Anjela intentionally struck or cut him." Brief at 11.

State v. Smith, 124 Wn. App. 417, 102 P.3d 158 (2004) provides analysis. There a woman shot a single bullet into a car occupied by three people. 124 Wn. App. at 422-23. The victim testified that he had come with two friends to Smith's house to get his children for visitation. 124 Wn. App. 423. Smith claimed that the victim had come in the house and assaulted her. *Id.* She claimed that she armed herself with the gun, went outside, pointed the gun at the ground, and it went off. 124 Wn. App. at 423-24. The victim and the two others claimed that they looked up to see Smith aiming something at them, that her hand moved as if to release a

safety, and that she fired the weapon. 124 Wn. App. at 424.

On appeal, Smith claimed, among other things, that there was insufficient proof of her intent to assault. *Smith*, 124 Wn. App. at 427.

That claim was disposed of as follows:

Smith intertwines her alternative means and sufficiency arguments and further asserts that the State did not prove that she intended to shoot the gun or that each victim suffered fear and apprehension. She argues that no evidence shows that she intended to discharge the gun. We disagree. The jury could reasonably infer from at least Moore's testimony that Smith intended to shoot when she aimed the gun and moved her hand as if to release the safety device.

Smith, 124 Wn. App. at 427.

The case is much like the present case. A person arms herself with a deadly weapon on a claim of self defense, assaults another with the weapon, and then claims in court that she did not mean to use the weapon. In *Smith*, aiming, manipulating, and firing the gun allowed an inference of intent. Similarly, Hasseries retrieved a sword, wielded it in an aggressive, ready position, advanced on Patrick in this position, and ended up recklessly giving him a substantial stab wound. A reasonable jury could easily infer intent. This claim fails.

2. ***The evidence is sufficient to establish the absence of self-defense.***

Hasseries claims that the evidence is insufficient to prove the absence of self-defense. The same legal standards on the sufficiency of the evidence as above are applied to this issue.

If a defendant advances “some” evidence of self-defense, the burden of proof shifts to the prosecution to prove beyond a reasonable doubt the absence of self-defense. *State v. Walden*, 131 Wash.2d 469, 473–74, 932 P.2d 1237 (1997). This because a self-defense negates an element of the crime. *See State v. Acosta*, 101 Wn.2d 612,616, 683 P.2d 1069 (1984). In Washington, “[e]vidence of self-defense is evaluated ‘from the standpoint of the reasonably prudent person, knowing all the defendant knows and seeing all the defendant sees.’” *State v. Skuza* 156 Wn. App. 886, ¶38, 235 P.3d 842 (2010), *review denied* 170 Wn.2d 1021 (2011), *quoting Walden*, 131 Wn.2d at 474, 932 P.2d 1237.

First, it is unclear how Hasseries got a self-defense instruction regarding her use of the sword because “Deadly force may only be used in self-defense if the defendant reasonably believes he or she is threatened with death or great personal injury.” *State v. Walden*, 131 Wn.2d at 474. She alleged a contemporary unarmed assault by Patrick but did not say that she feared death or great personal injury. Her attack with the sword

was based on her belief that Patrick had a “god-awful” look on his face. There is not evidence in this case of Patrick using or offering to use a weapon of any kind. There is no evidence in this case that Patrick threatened to do any violent act to her. Hasseries’ evidence was of an unarmed assault that the jury clearly did not believe and an objectively undefinable look on Patrick’s face. Hasseries brought a sword to a fist fight. In so doing, she elevated what by her own words was a shoving match into a serious armed attack.

The state did not appeal the giving of the self-defense instructions in this case. However, the rule on the use of deadly force against alleged unarmed force provides context for the issue raised. The jury here was properly instructed that Hasseries could use force in self-defense “when the force is not more than is necessary.” CP 58. The facts of the present case raise serious questions as to whether Hasseries’ resort to a deadly weapon under the circumstances was “not more than is necessary.” Although Hasseries had no duty to retreat, particularly in her home, Patrick believed she would just leave the house after he had fended her two occasions of unarmed assault. Instead, downstairs, he was confronted with his angry wife who had armed herself with an obviously deadly instrument and who advanced toward him. *See* 4RP 272 (Anjela Hasseries: “When I get mad I get mean.”).

The same facts that allow a reasonable inference as to Hasseries' intent to assault serve to disprove her argument on this issue. Hasseries said what she said and, again, the jury did not believe her. The testimony of Patrick Hasseries makes clear that Hasseries' resort to the sword was an escalation of her own assaults against him. And this includes his testimony that after the two disengaged upstairs, he paused and came down expecting her to have left the house. Hasseries did not allege a violent response when she confronted him with the information that she had an out-side-the-marriage boyfriend and again later when she refused to break off that relationship. He said nothing threatening as she tried to find the house deed, remarking only that he had hidden it and she would not find it. 4RP 272. The jury did not believe that after he controlled himself while being told on separate occasions about her affair, he just spontaneously assaulted her while she looked for a document.

Hasseries' testimony that Patrick was the physically aggressive party failed to even justify her escalation to deadly force. On Patrick's testimony, he was never physically aggressive or threatening. There was no self-defense but rather an escalation by Hasseries because she got mad and got mean. Taken in a light most favorable to the state, the state proved the absence of self-defense.

B. DEFENSE COUNSEL WAS NOT INEFFECTIVE BECAUSE THE PROPERLY GIVEN FIRST AGGRESSOR INSTRUCTION DID NOT NEED TO BE AMENDED.

Hasseries next claims that defense counsel was ineffective for not objecting to the language of the pattern first aggressor instruction. She argues that counsel should have moved to amend the pattern instruction to allow that words alone are not adequate provocation. This claim is without merit because the provocative acts here had little to do with Hasseries' abusive language toward Patrick and were based, rather, on Hasseries' multiple, raging assaults of Patrick.

In order to overcome the strong presumption of effectiveness that applies to counsel's representation, a defendant bears the burden of demonstrating both deficient performance and prejudice. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995); *see also Strickland v. Washington*, 466 U.S. 668, 686, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). If either part of the test is not satisfied, the inquiry need go no further. *State v. Lord*, 117 Wn.2d 829, 894, 822 P.2d 177 (1991), *cert. denied*, 506 U.S. 856 (1992).

The performance prong of the test is deferential to counsel: the reviewing court presumes that the defendant was properly represented. *Lord*, 117 Wn.2d at 883; *Strickland*, 466 U.S. at 688-89. It must make

every effort to eliminate the distorting effects of hindsight and must strongly presume that counsel's conduct constituted sound trial strategy. *Strickland*, 466 U.S. at 689; *In re Rice*, 118 Wn.2d 876, 888-89, 828 P.2d 1086 (1992). "Deficient performance is not shown by matters that go to trial strategy or tactics." *State v. Hendrickson*, 129 Wn.2d 61, 78, 917 P.2d 563 (1996).

To show prejudice, the defendant must establish that "there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different." *Hendrickson*, 129 Wn.2d at 78; *Strickland*, 466 U.S. at 687.

Where, as here, the claim is brought on direct appeal, the Court limits review to matters contained in the trial record. *State v. Crane*, 116 Wn.2d 315, 335, 804 P.2d 10, *cert. denied*, 501 U.S. 1237 (1991).

Jury instructions are sufficient if they are supported by substantial evidence, allow parties to argue their case theories, and accurately inform the jury of the applicable law. [FULL CITE!] *State v. Kee*, 6 Wn. App.2d at 880. In particular, "Self-defense instructions are subject to heightened scrutiny and must make the relevant legal standard manifestly apparent to the average juror." *Kee*, 6 Wn. App.2d at 880 (internal quotation omitted), *citing State v. Woods*, 138 Wn. App. 191, 196, 156 P.3d 309 (2007)

In the present case, the jury was instructed on Hasseries' claim of

self-defense. CP 58-61. Within those instructions, the jury was instructed that a first aggressor may not rely on self-defense. CP 60. The instruction is a direct quotation of the pattern instruction on the point of law:

No person may, by any intentional act reasonably likely to provoke a belligerent response, create a necessity for acting in self-defense and thereupon use or attempt to use force upon or toward another person. Therefore, if you find beyond a reasonable doubt that the defendant was the aggressor, and that defendant's acts and conduct provoked or commenced the fight, then self-defense is not available as a defense.

CP 60; WPIC 16.04.

“A first aggressor jury instruction is appropriate when there is credible evidence from which a jury can reasonably determine that the defendant provoked the need to act in self-defense” or “when there is conflicting evidence as to whether the defendant’s conduct precipitated a fight.” *State v. Key*, 6 Wn. App.2d 874, 879, 431 P.3d 1080 (2018)(internal quotation omitted), *citing State v. Riley*, 137 Wn.2d 904, 909-10, 976 P.2d 624 (1999).

Hasseries’ concedes that the instruction was properly given because “there was conflicting evidence about whether Anjela provoked the need to act in self-defense.” Brief at 15. Further, Patrick’s testimony about the two physical attacks on him that preceded the stabbing constitute “credible evidence” that Hasseries “provoked the need to act in self-defense.” *Key*, 6 Wn. App.2d at 879.

The altercation began with angry words and insults. But the evidence shows that Patrick's words, that he had hidden the document box from her, enraged Hasseries, not the other way around. The jury rejected Hasseries' testimony to the contrary.

In *State v. Kee*, a verbal altercation quickly devolved into a physical one. The victim and a friend were walking in a neighborhood while playing loud music. 6 Wn. App.2d at 876. A man asked them to turn down the music and a verbal argument ensued. *Id.* Kee then approached the two men asking if the victim owed the first man money. 6 Wn. App.2d at 877. Insults were exchanged: the victim called Kee a "bitch" and Kee asked if he wanted her "F you[r] little butt up?" *Id.* (alteration by the court). He said "[D]o it" and she hit him. *Id.* (alteration buy the court).

On these facts, this Court held that the first aggressor instruction was properly given. *Kee*, 6 Wn. App.2d at 880. However, on these facts it was held that the first aggressor instruction was incomplete because it did not instruct the jury that words alone do not provide adequate provocation. 6 Wn. App.2d at 882. The court found that "From the evidence presented at trial, a reasonable juror could have concluded that Kee's comments to Ostrander provoked the assault." *Kee*, 6 Wn. App.2d at 881.

The present case is not the same. As noted, Hasseries did hurl insults at Patrick. But Patrick's testimony is clear that her words never occasioned him to take belligerent action. The record here shows that the jury rejected Hasseries' self-defense argument in which she claimed that Patrick assaulted her first. More to the point, Hasseries testified that at the point in time that she fled Patrick's alleged unarmed assaults and armed herself with the sword "I didn't say anything to him. I just got up and left." 4RP 305.

In this matter, either Anjela Hasseries or Patrick Hasseries began the affray with physical contact, not mere words. Hasseries herself claims that her resort to the sword was preceded by her saying nothing to him. But otherwise, the jury rejected her story. Hasseries placed herself in a defensive posture by assaulting Patrick, not by insulting him. There was no ineffective assistance because under these facts the first aggressor instruction need not have been amended.

**C. THE SUPERVISION REQUIREMENTS
IMPOSED WERE APPROPRIATE AND
SUPPORTED BY THE RECORD.**

Hasseries next claims that the trial court abused its discretion by requiring drug, alcohol, and mental health treatment. This claim is

without merit because the conditions imposed were authorized by law and reasonably crime-related.

The imposition of conditions of supervision is reviewed for abuse of discretion. *State v. Nguyen*, 191 Wn.2d 671, 678, 425 P.3d 847 (2018). Conditions will not be reversed unless manifestly unreasonable. *Id.*

A trial court may impose any crime-related prohibition. RCW 9.94A.703(3)(f). “‘Crime-related prohibition’ means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted.” RCW 9.94A.030(10). But given the abuse of discretion standard, “[s]uch conditions are usually upheld if reasonably crime related.” *Nguyen*, 191 Wn.2d at 683. Thus, “[a] court does not abuse its discretion if a “reasonable relationship” between the crime of conviction and the community custody condition exists.” *Nguyen*, 191 Wn.2d at 684. There need be only “some basis for the connection.” *Id.*

The trial court ordered Hasseries to not possess or use illegal drugs or alcohol. CP 78. The trial court ordered substance abuse and mental health evaluations and compliance with treatment recommendations. CP 78.

In his victim impact statement, Patrick Hasseries revealed that Hasseries has been diagnosed with “Bipolar Type 1” by a named

psychologist. State's Supp. CP.² Mr. Hasseries reported to the trial court that Hasseries bipolar disorder had gotten "much worse" over time. Id. He also reports that Hasseries had bouts with "anorexia." Id. Further, Hasseries reported that Hasseries has in the past engaged in "self-harm and suicidal ideation." Id. He recounted specific incidents of her struggles with her disorders over time. Id.

Focusing on the current offense, the trial court observed that "the reaction that Ms. Hasseries had to the situation was grossly disproportionate to what was occurring at the time. . .for that reason, I have some concerns about mental health as well as whether or not there was some drug issues." RP, 3/22/19, 11. Further, the trial court found "There's also reference to mental health issues in the victim impact statement that is somewhat consistent with the fact pattern that the court observed." Id. The trial court found that the behavior involved evidenced that Hasseries' life had "spun out of control to this point that you decided to pick up a sword and to, essentially, stab your husband." RP, 3/22/19, 12.

The record, then, establishes a reasonable relationship between Hasseries' mental health issues and the offense. The trial court clearly

² The document was ordered as supplemental clerk's papers at the time of this writing and the state is therefore not advised of the page numbers the superior court clerk will assign.

found that the behavior during the offense was consistent with the reports of mental health difficulties provided by Patrick Hasseries. The trial court's discretion was not abused in ordering that Hasseries sit for an evaluation and comply with treatment recommendations.

Similarly, Patrick Hasseries provided a reasonable reason for the order of a drug and alcohol evaluation and compliance with recommended treatment. He spoke of her mixing "a considerable amount of vodka" with "the high dosage of Lithium that she took daily." State's Spp. CP. He wrote of how she "vastly increased her use of mind-altering substances" and solicited her boyfriend to get her drugs. *Id.* Thus, the trial court was provided with a reasonable relationship between Hasseries' drug and alcohol use and the domestic dynamics that led to this offense.

As our Supreme Court has held, it is not an abuse of discretion to impose a "condition [that] has more to do with [the defendant's] inability to control her urges and impulsivities than it does with the specific facts of her crimes." *Nguyen*, 191 Wn.2d at 687 (alteration added). The trial court did no more in the present case than listen to the needs of the defendant and give credence to the Supreme Court's holding. There was no abuse of discretion.

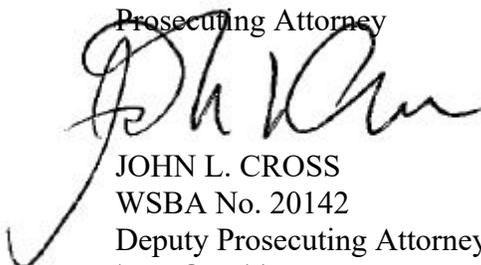
IV. CONCLUSION

For the foregoing reasons, Hasseries's conviction and sentence should be affirmed.

DATED November 19, 2019.

Respectfully submitted,

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KITSAP COUNTY PROSECUTOR'S OFFICE - CRIMINAL DIVISION

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