Supreme Court No. _____
COA No. 39354-2-III

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CHASE SPEEGLE,

Appellant.

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

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER AND DECISION BELOW

Chase Speegle, appellant below and petitioner here, requests this Court review the Court of Appeal's decision dated September 12, 2024. App. A. The Court denied Mr. Speegle's motion to reconsider on October 17, 2024. App. B.

B. ISSUES PRESENTED

1. Under our nation's long-established law of self-defense, an assaulted person need not retreat from a place where he has a right to be. A property owner who ejects an invitee cannot legally assault the invitee as they are leaving the property. Mr. Speegle was assaulted by agents of the property owner as he was leaving the property at their request. The trial court's refusal to instruct regarding no duty to retreat when evidence showed that Mr. Speegle was complying with

the property owner's demands vaults property rights over individual rights to bodily autonomy. Should this Court grant review because the Court of Appeals decision affirming the trial court presents a significant constitutional issue and an issue of substantial public interest in the scope of this state's self-defense law? RAP 13.4(b)(3), (b)(4).

2. This Court has held that it is error to give a first-aggressor instruction in a self-defense case where the defendant unambiguously and in good faith first withdrew from combat. *State v. Riley*, 137 Wn.2d 904, 909, 976 P.2d 624 (1999). Video evidence in Mr. Speegle's case shows that he unambiguously turned away from bar staff and walked towards the door when he was assaulted from behind. The Court of Appeals used uncontextualized testimony, contradicted by objective evidence, to hold that the first-aggressor

instruction was proper. Should this Court grant review to correct the failure of the Court of Appeals to follow clear precedent of this Court regarding the first-aggressor instruction and to clarify the quality of evidence upon which a reviewing court can rely when determining the factual applicability of a jury instruction? RAP 13.4(b)(1), (b)(4).

3. If Mr. Speegle's attorney had conducted basic research prior to trial, he would have objected to a first-aggressor instruction. It was ineffective for him to fail to object because the instruction was factually inappropriate and erroneously lowered the State's burden of proof. Should this Court grant review to correct the failure of the Court of Appeals to recognize defense counsel's deficiencies which deprived Mr. Speegle of his constitutional rights to effective

assistance of counsel and a fair trial? RAP 13.4(b)(3), (b)(4).

4. A defendant has a due process right to a fair trial in a fair tribunal. This right is violated when the judge appears biased against the defendant. The trial judge in Mr. Speegle's case expressed outrage over the language Mr. Speegle used to express himself when he sentenced Mr. Speegle to the high end of his sentencing range. This violated the First Amendment and demonstrated the judge's classism. Should this Court grant review to guide trial courts on impermissible sentencing considerations? RAP 13.4(b)(3), (b)(4).

C. STATEMENT OF THE CASE

Bar staff ask Mr. Speegle to leave and then assault him.

Mr. Speegle and his girlfriend joined a long line of patrons attempting to purchase drinks at an East

Wenatchee bar. RP 316-17. While waiting in line, Mr. Speegle and another patron began arguing about the other patron cutting in line. RP 403-04.

The bar's bouncer, Tanner Seims, asked the other patron and Mr. Speegle to leave. RP 338. The bartender, Kahli Jackson, positioned herself between Mr. Speegle and the exit after Mr. Speegle began leaving. Ex. 1; RP 318. A video of the incident shows Mr. Speegle turned away from the bartender and walked towards the exit. *Id.*

While he was walking towards the exit, the bartender dumped a beer over his head from behind while the bouncer pushed Mr. Speegle towards the door. *Id.* Mr. Speegle turned and threw a single punch. *Id.* The punch struck the bouncer's nose, breaking it. RP 344. Mr. Speegle then continued his way out of the bar. Ex. 1.

The bartender explained that after Mr. Speegle began leaving, she told Mr. Speegle that he could not leave with an open beer, and she tried to retrieve the beer from him. RP 318-19. She claimed that Mr. Speegle refused to give her the beer and pulled it back as if to hit her with it (RP 319), but the video does not show this and no other witness testified to this. Ex. 1. She later clarified that this incident happened before the video began. RP 324.

The State charged Mr. Speegle with assault in the second degree. CP 2-3.

Self-defense instructions: the trial court refuses to give a no duty to retreat instruction and gives a first-aggressor instruction without defense objection.

Mr. Speegle's defense at trial was self-defense. RP 422; CP 23. His attorney asked for a "no duty to retreat" instruction. RP 436, 439, 441, 443-46. The trial

court refused to give it, reasoning that Mr. Speegle was assaulted after he was asked to leave the bar. RP 446.

The State asked for a first-aggressor instruction. RP 434. Mr. Speegle's counsel failed to object to the first-aggressor instruction. RP 434, 439-41.

After receiving these instructions, the jury returned a verdict of guilty. CP 34.

Comments by the trial judge at sentencing about Mr. Speegle's word choice.

At sentencing, the trial judge expressed disdain for Mr. Speegle over his diction. The judge thought that Mr. Speegle used too many "f-bombs," a euphemism for the word "fuck." RP 660-61. The judge stated:

> And I think one of the things that really stood out to me, not only was Mr. Speegle - not only did we hear more F-bombs from Mr. Speegle during his testimony than I have ever heard from anyone in thirty years of doing this -- being in the law profession.
>
> I have never seen anyone get on the witness stand and express themselves in the way that Mr. Speegle did. And it wasn't

> just how he expressed it and the F-bombs, it was the intense protestations to the effect that this was ridiculous and this was stupid. I heard that a lot. Many, many times. And if that's the way Mr. Speegle conducts himself in this controlled environment of this courtroom, how in the world could we expect he would conduct himself in any way different on the scene, in a bar, after drinking beer?
>
> . . . [O]ne thing that . . . stood out about . . . the video from outside the bar. Police officers roll up, they've got Mr. Speegle on the video. His animated, intense F-bomb laden way of expressing himself, I thought whoa, is this a—an indicator that this defendant had imbibed a bunch of alcohol and it affected his behavior? Well, after I saw him on the witness stand, I had to reexamine that. Apparently, it's not, that's just the way Mr. Speegle acts. That's the way he conducts himself.

Id.

Mr. Speegle's only use of the word "fuck" during his testimony was when he recounted the statements he made during the incident. RP 404, 405, 407, 419-20. When Mr. Speegle used the words "stupid" and "ridiculous," it was in the context of him describing

how he did not want any of this to happen. RP 422. He said that he felt like he was the victim and the police did not believe him. RP 423, 424-25.

The judge sentenced Mr. Speegle to the high end of his standard sentencing range: 57 months. RP 663; CP 96-98.

D. ARGUMENT

1. The Court of Appeals' decision vaulted property rights over a person's right to bodily autonomy and misconstrued the basic right of self-defense when it held that Mr. Speegle had a duty to retreat while he was being assaulted

A property owner is not licensed to assault a person as they are complying with the property owner's demand that they leave. The Court of Appeals' decision that Mr. Speegle "lost" the right to use force in self-defense when a reasonable option was to leave artificially values property rights over a person's right

to bodily autonomy and denigrates the long recognized and fundamental right of self-defense. Slip op. at 7.

The right to act in self-defense is "a basic right" that is deeply rooted and "fundamental" to our nation's concept of liberty. *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 767, 130 S. Ct. 3020, 177 L. Ed. 2d 894 (2010); U.S. Const. amends. II, XIV. In Washington, article I, section 24 mandates that "[t]he right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired." Both of these constitutional rights find their foundation in the history and tradition of our nation's right to self-defense. *McDonald*, 561 U.S. at 768; *City of Seattle v. Evans*, 184 Wn.2d 856, 862, 366 P.3d 906 (2015).

The Court of Appeals' decision impairs a person's right of self-defense in favor of a myopic valuation of property rights, and this Court should grant review

because this case presents a significant question of constitutional law and involves an issue of substantial public interest. RAP 13.4(3), (4).

a. An assault victim need not flee rather than defend himself if in a place where he was told to be

A person has no duty to retreat when he is assaulted in a place where he has a right to be. *State v. Redmond*, 150 Wn.2d 489, 493, 78 P.3d 1001 (2003). "Flight, however reasonable an alternative to violence, is not required." *State v. Williams*, 81 Wn. App. 738, 743-44, 916 P.2d 445 (1996). The trial court must instruct the jury on the absence of a duty to retreat if the jury "may conclude that flight is a reasonably effective alternative to the use of force in self-defense." *Williams*, 81 Wn. App. at 744. Evidence is sufficient to give the instruction where there is "some evidence" to

support the instruction, and the refusal to do so is reversible error. *Redmond*, 150 Wn.2d at 43, 495.

Evidence in this case showed that Mr. Speegle followed the requests of the bar staff to leave. Testimony of Ms. Jackson, the bartender, and uncontroverted video evidence showed that Mr. Speegle was where he was supposed to be–walking to the exit–when he was assaulted from behind by the very agents of the property owner who were telling him to leave. RP 317-318; Ex. 1.

The testimony of Mr. Speegle's girlfriend, Patricia Martinez, also supported that Mr. Speegle began to leave when he was asked. She stated that the male bartender asked them to leave, and then she explained that they began to leave without unnecessary delay. RP 387.

Mr. Speegle also testified that he left when asked. Mr. Speegle testified that the bouncer said "you guys gotta go," which his girlfriend agreed with, "[s]o we turned and we start walking to – Q. Were you heading to the exit? A – yeah. We're walking towards the door." RP 405. He continued:

> And the door is that way, we literally – as soon as they asked – I'm not trying to stay somewhere where I don't want to – like, come on man, I'm not doing that. So, I'm – we start leaving and the – the bartender – she like comes up behind me and she grabs me . . . ."

RP 405. Thus, Mr. Speegle's version of events also was that he left as soon as reasonably possible after being asked to leave.

The Court of Appeals overlooked this evidence when it claimed, "Mr. Speegle was told to leave the bar well before he was involved with any sort of conflict with the bartender or the bouncer." Slip op. at 6. From

this asserted fact, this Court reasoned "[t]hus, any right he had to be on the property expired at that point. Because Mr. Speegle did not have a right to be at the bar, he was not entitled to stand his ground or to have the jury instructed on the concept of no duty to retreat." *Id.*

The Court of Appeals never acknowledged that Ms. Martinez, Mr. Speegle, and even the bartender's testimony and video showed that Mr. Speegle timely tried to leave, as he was asked. Mr. Speegle followed the requests of the bar staff—the agents of the property owner—and left at their direction. He could not disappear himself out of the establishment, however. He had to use his own two feet to get him there, which he did. Although Mr. Speegle had lost the right to remain on the property when he was asked to leave, it does not follow that he lost the right to

reasonably and directly traverse the property on his way to the exit at the property owner's request. The trial record supported giving the no duty to retreat instruction.

b. Mr. Speegle was entitled to leave the bar and was not a trespasser

Mr. Speegle lawfully entered the bar as a licensee of the business. *See* RCW 9A.52.090(2). When asked to leave, he and others testified that he did not remain unlawfully, so he was not a trespasser. *See* RCW 9A.52.020. To leave, he had to traverse the property, so logically his license to be on the premises continued as long as he was complying with the order to leave. This is consistent with the law of trespass, which does not find someone to be a trespasser until they have unlawfully remained on a property. RCW 9A.52.020.

Mr. Speegle did not lose his right to stand his ground when he was attacked from behind on his way

to the exit because he was not a trespasser. He was entitled to be where he was because he needed to be there in order to exit. The Court of Appeals' holding that Mr. Speegle lost his right to be on the property once he was told to leave conflicts with this State's law of trespass, as well as the reality of human locomotion. Slip op. at 6.

Additionally, no law of the State of Washington entitles a bar owner to assault a patron to enforce liquor regulations. It was thus unlawful for Ms. Jackson, the bartender, to dump a beer over Mr. Speegle's head in her alleged effort to retrieve another beer. And it was unlawful for the bouncer to push Mr. Speegle while he was walking to the door without his help. Both of these were assaults. CP 22. Denying Mr. Speegle the no duty to retreat instruction in this scenario deprived Mr. Speegle of his right to self-

defense and illogically vaulted property rights and liquor regulation compliance over his right of self-defense.

c. Instructions which fail to include necessary law regarding self-defense violate due process

Jury instructions which minimize the State's burden to disprove self-defense beyond a reasonable doubt violate due process. *State v. Ackerman*, 11 Wn. App. 2d 304, 310, 453 P.3d 749 (2019); U.S. Const. amend. XIV. In fact, "jury instructions must more than adequately convey the law of self-defense." *State v. LeFaber*, 128 Wn.2d 896, 900, 913 P.2d 369 (1996). Due process requires jury instructions, read as a whole, to correctly state the law and "make the relevant legal standard manifestly apparent to the average juror." *State v. Kyllo*, 166 Wn.2d 856, 864, 215 P.3d 177 (2009) (internal quotation omitted). Reversal is required when the jury is not adequately instructed about the law of

self-defense. *State v. Fischer*, 23 Wn. App. 756, 757, 598 P.2d 742 (1979).

Without the no duty to retreat instruction, Mr. Speegle was unable to argue his theory of self-defense to the jury. The State argued that Mr. Speegle was only entitled to retreat, not defend himself, when he was attacked from behind while leaving the bar. This lowered the State's burden of proof because it no longer had to disprove self-defense. This deprived Mr. Speegle of his rights to a defense and due process and entitles him to a new trial.

Review should be granted because the Court of Appeals misunderstood and misapplied a basic tenet of self-defense. RAP 13.4(b)(3). Substantial public interest also favors review because this Court should address a person's right to defend himself against attack when

complying with property owner directions, even if those directions are to leave. RAP 13.4(b)(4).

2. The Court of Appeals failed to follow this Court's clear precedent about the legal effect of an unambiguous withdrawal from conflict

The Court of Appeals' decision ignored controlling caselaw about the effect of an unambiguous withdrawal from conflict and ignored objective video evidence showing that Mr. Speegle unambiguously withdrew from any conflict when it ruled that the first-aggressor instruction was properly given in this case. Slip op at 7-8.

The first-aggressor instruction is not appropriate for every situation where the defendant could be described as provoking an altercation. Even if the defendant provoked an altercation, if "he or she in good faith **first withdraws from the combat** at a time and in a manner to let the other person know that he

or she is withdrawing or intends to withdraw from further aggressive action," the defendant may still invoke the right of self-defense. *State v. Riley*, 137 Wn.2d 904, 909, 976 P.2d 624 (1999) (emphasis added).

The Court of Appeals misunderstood the importance of the unequivocal evidence of Mr. Speegle's withdrawal. The surveillance video shows that Mr. Speegle unambiguously withdrew from physical conflict, if there ever was any. Ex. 1. The video shows Mr. Speegle initially facing the bartender, Ms. Jackson. *Id.* The video skips, and, when it restarts, it shows that Mr. Speegle has moved closer to the door but Ms. Jackson has moved between Mr. Speegle and the door, blocking his egress. *Id.*

Mr. Speegle turns away from Ms. Jackson and begins moving towards the exit. *Id.* She reaches out and grabs at a bottle in his hands while he continues to

move towards the exit and away from her. *Id*. She then begins dumping a beer over his head while he's continuing to move away from her and towards the door. *Id*. The bouncer is simultaneously pushing Mr. Speegle towards the exit even though he was already walking there. *Id*. Mr. Speegle then turned and threw a single punch, hitting the bouncer. At no point prior does Mr. Speegle raise his arm or engage in any other act that could be confused with an attempt to hit the bartender. *Id*.

The Court of Appeals relied on testimony of Ms. Jackson to find that there was a prior act of aggression by Mr. Speegle. Slip op. at 8; RP 319. The court did not rely on the proper contextualization for this testimony in relation to the video, however. Ms. Jackson's testimony, after she was shown the contradictory video, clarified the timing of her claim about this

confrontation with Mr. Speegle. RP 323-24. Ms. Jackson clarified that the portion of the incident involving Mr. Speegle holding the bottle as if he was about to hit her occurred *before* the video began. RP 324.

Thus both Ms. Jackson's testimony[1] and the surveillance video showed that Mr. Speegle disengaged from any conflict with bar staff before he was assaulted. Ex. 1. A first-aggressor instruction was improper because Mr. Speegle withdrew from the alleged conflict **"**at a time and in a manner to let the other person know that he or she is withdrawing or

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[1] Ms. Jackson's testimony on this point was contradicted by other evidence at trial. As Judge Lawrence-Berrey notes in his concurrence, the video refutes that Ms. Jackson threw a beer at Mr. Speegle to defend herself after he "reared back to hit her." Slip op. at 18. Indeed, no other witness corroborated Ms. Jackson's claim that Mr. Speegle ever held up his arm as if to hit her, including the bouncer who was present during their interactions.

intends to withdraw from further aggressive action." *Riley*, 137 Wn.2d at 909.

Although the reviewing Court must interpret the evidence in the light most favorable to the State here, *State v. Fisher*, 185 Wn.2d 836, 850, 374 P.3d 1185 (2016), this does not mean that the reviewing Court takes testimony out of context or ignores objective, contradictory evidence. However, the Court of Appeals took Ms. Jackson's testimony out of context and failed to consider the effect of the video evidence of Mr. Speegle's withdrawal. Slip op. at 8. This Court should grant review to clarify that improperly contextualized testimony cannot displace objective evidence showing that an instruction is improper. RAP 13.4(b)(4).

a. Mr. Speegle's counsel was ineffective for failing to object to an instruction which only found support in uncontextualized testimony, contradicted by objective evidence.

Defense counsel is ineffective for failing to object to jury instructions which are both factually inappropriate and also undermine the defense. *Kyllo*, 166 Wn.2d at 868. In *Kyllo*, the trial counsel's failure to object to an obviously incorrect instruction regarding the law of self-defense was constitutionally-deficient performance entitling the defendant to a new trial. *Id.*; *see also State v. Rodriguez*, 121 Wn. App. 180, 187, 87 P.3d 1201, 1205 (2004) (holding that trial counsel was deficient for failing to object to self-defense instructions which decreased the State's burden to disprove self-defense).

Basic legal research about the law of self-defense reveals that a first-aggressor instruction is inappropriate where the defendant unambiguously

withdraws from physical confrontation. *Riley*, 137 Wn.2d at 909. An objection was likely to have succeeded here in preventing the improper first-aggressor instruction because no facts in the record support the instruction. The Court of Appeals failed to properly understand the nature of this error because it, too, unjustifiably erred regarding the applicability of the first-aggressor instruction to this case.

This Court should accept review to give guidance to reviewing courts and defense counsel about how uncontextualized testimony, contradicted by objective evidence, cannot form the factual basis for an instruction to the jury. RAP 13.4(b)(4). It should also grant review to clarify that basic research about the first-aggressor instruction is required for effective assistance of counsel. RAP 13.4(b)(3).

3. The Court of Appeals misapprehended how the trial court's penalization of Mr. Speegle's diction was evidence of unlawful bias

The trial court's disdain, borne of Mr. Speegle's coarse language during the incident, displayed unlawful bias because punishment for word choice violates Mr. Speegle's First Amendment rights and because language is a proxy for class.

Due process requires a fair trial before a fair tribunal. *In re Murchison*, 349 U.S. 133, 136, 75 S. Ct. 623, 99 L. Ed. 942 (1955). This demands not only actual fairness but also the appearance of fairness from the judge. *Id.* These requirements seek to prevent "[p]articipation in the decision making process by a person who is potentially interested or biased . . ." *City of Hoquiam v. Pub. Emp. Rels. Comm'n*, 97 Wn.2d 481, 488, 646 P.2d 129 (1982).

Bias means a "favorable or unfavorable disposition or opinion that is somehow *wrongful* or *inappropriate*, either because it is undeserved, . . . or because it is excessive in degree . . ." *Liteky v. United States*, 510 U.S. 540, 550, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994) (emphasis in original). "Judges have a duty to conduct themselves with respect for those they serve, including the litigants who come before them." *State v. Lemke*, 7 Wn. App. 2d 23, 27, 434 P.3d 551 (2018).

Use of epithets and slurs are manifestations of bias or prejudice by the judge. *Id.* Similarly, remarks by a judge that "display a deep-seated favoritism or antagonism that would make fair judgment impossible" can form the basis for a bias or partiality motion. *Liteky*, 510 U.S. at 555. Negative stereotyping can also

be a manifestation of bias or prejudice. CJC 2.3, comment 2.

The trial court violated the appearance of fairness when it denigrated Mr. Speegle for his diction. It was within Mr. Speegle's First Amendment rights to express himself by using the word "fuck," even if some sensitive members of society would be offended. "Even insults which involve abusive or vulgar language are protected speech" if not used as "fighting words." *State v. Reyes*, 104 Wn.2d 35, 42, 700 P.2d 1155 (1985).

There is no evidence in the record that Mr. Speegle's use of the word "fuck" constituted a fighting word. The bartender's aggressive actions were spurred not by Mr. Speegle's diction but by his refusal to return to her a beer he had paid for. RP 316. He also did not incite violence when he used the word while speaking with the police. RP 370-71. Mr. Speegle's use of the

word "fuck" was thus protected speech which the trial court could not penalize him for.

But that is what the trial court did. The trial court repeated, more than once, that it was struck by Mr. Speegle's use of the word "fuck," which it termed the "f-bomb":

> And I think one of the things that really stood out to me, not only was Mr. Speegle - not only did we hear more F-bombs from Mr. Speegle during his testimony than I have ever heard from anyone in thirty years of doing this -- being in the law profession.

RP 660. The judge continued:

> . . . [O]ne thing that . . . stood out about . . . the video from outside the bar. Police officers roll up, they've got Mr. Speegle on the video. His animated, intense F-bomb laden way of expressing himself, I thought whoa, is this a—an indicator that this defendant had imbibed a bunch of alcohol and it affected his behavior? Well, after I saw him on the witness stand, I had to reexamine that. Apparently, it's not, that's just the way Mr. Speegle acts. That's the way he conducts himself.

RP 660-61.

The trial court's use of the euphemism "f-bomb" for the word "fuck" shows how sensitive the court was to that word, since the euphemism analogizes the word to an explosive device. The trial court's concern about Mr. Speegle using foul, but nevertheless protected language, while living in the real world violated Mr. Speegle's First Amendment rights. Additionally, the judge exaggerated the number of times Mr. Speegle cursed on the stand, ignoring the fact that Mr. Speegle had been quoting himself from the night of the incident. RP 660.

It's been over fifty years since George Carlin first lampooned the idea that seven dirty words, including fuck, would "somehow corrupt our souls by repeating them for public consumption. . . ." Tim Ott, *How George Carlin's 'Seven Words' Changed Legal History*,

BIOGRAPHY (May 19, 2020) (available at: https://www.biography.com/legal-figures/george-carlin-seven-words-supreme-court). It's also been over fifty years since the United States Supreme Court forbid criminal punishment of an individual for wearing a jacket emblazoned with this offensive word, "Fuck." *Cohen v. California*, 403 U.S. 15, 25, 91 S. Ct. 1780, 29 L. Ed. 2d 284 (1971). In striking down the municipal code criminalizing the use of this word, the United States Supreme Court declared that "[s]urely the State has no right to cleanse public debate to the point where it is grammatically palatable to the most squeamish among us." *Id*.

Yet, the trial court punished Mr. Speegle for describing his word choice at the time of the incident. The trial court deemed Mr. Speegle less worthy of leniency due to his diction. The Court transparently

expressed its opprobrium of Mr. Speegle's use of the word "fuck," and expressed concern for the public because of his use. This amounted to an unconstitutional punishment of Mr. Speegle's exercise of his First Amendment rights.

The court's fixation with Mr. Speegle's word choice also thinly veiled its class-based bias. That language can serve as a proxy for class is a truth so ingrained in our society that it serves as a primary theme of George Bernard Shaw's seminal play, Pygmalion. Qilichboyeva Rayhona, *Linguistic Analysis of "Pygmalion" by B. Shaw*, EUROPEAN JOURNAL OF BUSINESS STARTUPS AND OPEN SOCIETY, Vol. 4, No. 6, p. 171 (2024) (available at: https://www.inovatus.es/index.php/ejbsos/article/view/3495/3297). "[S]ocial identity and ethnicity are in large part established and maintained through language." JOHN J. GUMPERZ AND

JENNY COOK-GUMPERZ, LANGUAGE AND SOCIAL IDENTITY 8 (John J. Gumperz ed., Cambridge University Press 1997) (1982) (available at: https://catdir.loc.gov/catdir/samples/cam031/82004331.pdf).

It is a popular stereotype that low-class people curse. *See, e.g.,* Karen Larsen*, Deleting the Expletives*, OREGON ST. BAR BULLETIN, at 41 (2000) (citing conception that cursing is a "low-class, uneducated" thing to do); *Pughe v. Lyle*, 10 F. Supp. 245, 247 (N.D. Cal. 1935) ("Other witnesses testified that the crowd attending was largely disorderly, of low class, using loud and profane language, and that there was much cursing at all hours of day and night."). By focusing negatively on this feature of Mr. Speegle's testimony, the trial court evoked this longstanding stereotype that people who curse are low-class and uneducated, and therefore less valued by society.

The trial court made it clear that it believed that Mr. Speegle was a less worthy individual because of his choice of words. The court placed undue emphasis on this detail, revealing that it weighed heavily in the court's mind when it decided the appropriate punishment for Mr. Speegle. Because this opprobrium penalized Mr. Speegle's First Amendment rights and served as a vehicle for class-based bias, the trial court denied Mr. Speegle his due process right to a fair hearing. He is entitled to a new sentencing hearing before a different, unbiased, judge.

E. CONCLUSION

Dystopia becomes reality when the law expects impossibilities. Mr. Speegle was where he was supposed to be when he was assaulted: heading straight for the exit. He was entitled to use force to defend himself. Retreat is not a reasonable alternative

to force when one is already retreating while they are assaulted from behind.

But instructional errors, one caused by his attorney's ineffectiveness, deprived Mr. Speegle of his right to self-defense. These errors were followed by a sentencing hearing where the judge showed that he was prejudiced against Mr. Speegle based on his exercise of his First Amendment rights and his class. The only remedy for these errors is a new trial before a different judge.

Counsel certifies this brief contains approximately 4,997 words and complies with RAP 18.17.

DATED this 18th day of November, 2024.

Respectfully submitted,

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APPENDIX A

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In the Office of the Clerk of Court
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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON, Respondent, v. CHASE ALLEN SPEEGLE, Appellant.	)))))))))	No. 39354-2-III UNPUBLISHED OPINION

PENNELL, J. — Chase Speegle received a 57-month sentence after a jury convicted him of second degree assault. We affirm Mr. Speegle's conviction but remand for resentencing.

FACTS

The incident giving rise to Mr. Speegle's conviction occurred at an East Wenatchee bar. Mr. Speegle was out with his girlfriend when he got into a verbal dispute with another patron. A bartender noticed the commotion and requested the bar's bouncer address the situation. The bouncer approached Mr. Speegle and the other patron and asked them both to leave. By that time, Mr. Speegle's girlfriend had bought Mr. Speegle a drink. Mr. Speegle took his drink, refused instructions to relinquish it back to the bar, and started walking toward the exit. When the bartender tried to take his drink, Mr. Speegle yelled and cussed at the bartender.

After some back and forth with the bouncer and bartenders, a physical altercation ensued that resulted in Mr. Speegle punching the bouncer in the face and breaking his nose. The State charged Mr. Speegle with second degree assault. At trial, Mr. Speegle claimed self-defense.

A surveillance video captured the assault and was shown at trial. According to the parties' testimonies, just prior to the start of the video, the bartender came up behind Mr. Speegle as he was walking toward the exit door and tried to grab his drink out of his hand, spinning him around. The bartender testified that Mr. Speegle then "squared up" to her and pulled his hand back as if he was going to hit her. 1 Rep. of Proc. (RP) (Oct. 27, 2022) at 325.

The surveillance video captured the parties' subsequent interactions. The video shows Mr. Speegle stepping away from the bouncer and bartender and walking toward the exit. Standing to the left of Mr. Speegle as he walked away, the bartender grabbed the drink out of Mr. Speegle's hand and poured beer on his head while the bouncer almost simultaneously stepped between them and placed his hands on Mr. Speegle's back to push or lead him toward the exit. In his immediate reaction, Mr. Speegle turned around and punched the bouncer in the face.

Mr. Speegle testified that at the time, he did not know who was pouring beer on him or who was pushing him from behind, and that he was hit in the head with the beer bottle as it was being poured on him. The video arguably does not show Mr. Speegle being hit. The bartender and the bouncer both denied hitting Mr. Speegle or witnessing him being hit.

Mr. Speegle requested the court instruct the jury on self-defense and also provide a "no duty to retreat" instruction. 1 RP (Oct. 27, 2022) at 439, 444-45. His theory was he was trying to leave the bar, but the bartender and bouncer prevented him from leaving when they grabbed him and took the drink out of his hand. The State conceded the court would likely allow the self-defense instruction, but objected to the no duty to retreat instruction. According to the State, the no duty to retreat instruction was inapplicable because, at the time of the altercation, Mr. Speegle did not have a right to be at the bar. The State also requested an initial aggressor instruction.

The court sided with the State on the instructions. The court instructed the jury on self-defense and provided an initial aggressor instruction. But the court did not provide an instruction on no duty to retreat.

In closing argument, the prosecution challenged Mr. Speegle's claim of self-defense based, in part, on the theory that his use of force was not necessary, and therefore

not lawful, because he could have reasonably walked away, i.e., retreated, rather than resort to using force. Counsel stated, "If you find that there was a reasonable alternative to him stopping and turning a hundred and eighty degrees and punching the bouncer in the face, *i.e.*, just keep on going, that ends this inquiry. Period. Full stop. The force he used was not lawful." 2 RP (Oct. 28, 2022) at 522-23.

The defense emphasized its theory that Mr. Speegle had the right to use force and defend himself because the bartender assaulted him—by grabbing Mr. Speegle's wrist and turning him around, pouring beer on him, and hitting his head with the beer bottle—and took his property—his drink—while the bouncer, who did not identify himself, simultaneously grabbed Mr. Speegle from behind.

The jury found Mr. Speegle guilty of second degree assault.

Prior to sentencing, the State filed a sentencing memorandum. The State addressed Mr. Speegle's offender score and attached records of Mr. Speegle's prior out-of-state convictions, including a certified sentencing order of a third degree assault conviction from Eagle County, Colorado. Per the Colorado sentencing order, Mr. Speegle pleaded guilty to "Assault 3-Know/Reckless Cause Injury" in October 2014. Clerk's Papers (CP) at 46, 52 (some capitalization omitted). The State's argument, opposed by Mr. Speegle, was that Mr. Speegle's Colorado assault conviction was comparable to a Washington

felony offense of assault in the third degree. The sentencing court agreed with the State and included one point for the Colorado conviction in calculating Mr. Speegle's offender score. The resultant standard range sentence was 43 to 57 months.

At sentencing, the court sentenced Mr. Speegle to 57 months in custody to be followed by 18 months of community custody. The court also imposed a $500 crime victim penalty assessment.

Mr. Speegle timely appeals.

ANALYSIS

Mr. Speegle challenges his conviction and his sentence. He argues: (1) the trial court wrongly failed to provide a "no duty to retreat" instruction, (2) the court erroneously provided an initial aggressor instruction, (3) the sentencing range was improperly inflated based on an inapplicable out-of-state conviction, (4) the trial court violated the appearance of fairness doctrine, and (5) the judgment and sentence contains improper legal financial obligations (LFOs). We disagree with Mr. Speegle's challenges to his conviction, but we agree with his arguments regarding the out-of-state conviction and LFOs. We address each claim in turn.

1. No duty to retreat instruction

A person acting in self-defense has "no duty to retreat" if they are "assaulted in a place where [they have] a right to be." *In re Pers. Restraint of Harvey*, 3 Wn. App. 2d 204, 215, 415 P.3d 253 (2018). The right to stand one's ground is clear when an individual is assaulted in their home or at a public place. *Id.* at 215-16. But the issue is more complex when one is on another's private property. In such circumstances, the right to stand one's ground turns on whether they have a license or privilege to be on the property. *Id*.

Mr. Speegle contends the court should have instructed the jury on no duty to retreat. Because Mr. Speegle's argument turns on the factual applicability of the instruction, not the applicable law, our review of the trial court's decision is for abuse of discretion. *See State v. Condon*, 182 Wn.2d 307, 315-16, 343 P.3d 357 (2015).

The trial court did not abuse its discretion in denying a no duty to retreat instruction. Mr. Speegle was told to leave the bar well before he was involved with any sort of conflict with the bartender or the bouncer. Thus, any right he had to be on the property expired at that point. Because Mr. Speegle did not have a right to be at the bar, he was not entitled to stand his ground or to have the jury instructed on the concept of no duty to retreat.

Mr. Speegle claims the concept of no duty to retreat remains applicable, despite the fact that he was told to leave the bar. He points out that he was entitled to leave the bar in peace, without being subject to assault. Thus, once he was attacked with the beer bottle, he was entitled to stand his ground and defend himself.

The flaw in Mr. Speegle's argument is that it conflates the concepts of self-defense and the right to stand one's ground. There is no dispute that, despite being told to leave, Mr. Speegle had the right to peaceably leave the bar. Thus, Mr. Speegle retained the right of self-defense. But what Mr. Speegle lost through his unprivileged presence was the right to use force in self-defense when a reasonable option was to leave. The no duty to retreat instruction was inapplicable.

2. Initial aggressor

Mr. Speegle claims the trial court should not have provided the jury an initial aggressor instruction. Although his attorney did not object to the instruction at the time of trial, Mr. Speegle claims the failure to object amounted to ineffective assistance of counsel.

To be entitled to relief on an ineffective assistance claim, Mr. Speegle must show both (1) deficient performance and (2) prejudice. *Strickland v. Washington*, 466 U.S. 668,

687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). Failure to meet either prong precludes relief.

In general, the right of self-defense does not apply to someone who acts as a first aggressor or provokes an altercation. *State v. Riley*, 137 Wn.2d 904, 909, 976 P.2d 624 (1999). The court may provide the jury with a first aggressor instruction in cases where "(1) the jury can reasonably determine from the evidence that the defendant provoked the fight, (2) the evidence conflicts as to whether the defendant's conduct provoked the fight, or (3) the evidence shows that the defendant made the first move by drawing a weapon." *State v. Anderson*, 144 Wn. App. 85, 89, 180 P.3d 885 (2008). The provoking conduct cannot be words alone, and must be reasonably likely to elicit a belligerent response. *State v. Sullivan*, 196 Wn. App. 277, 289-90, 383 P.3d 574 (2016).

Mr. Speegle's attorney did not perform deficiently in failing to object to an initial aggressor instruction because any such objection would have been futile. *See In re Pers. Restraint of Davis*, 152 Wn.2d 647, 748, 101 P.3d 1 (2004). According to testimony from the State's witnesses, Mr. Speegle pulled back his arm as if he was going to hit the bartender in response to the attempt to take his drink away. Mr. Speegle's threatening gesture occurred before the bartender threw beer in Mr. Speegle's face. Given this sequence of events, the initial aggressor instruction was justified.

Mr. Speegle has not shown his counsel performed deficiently by refraining from objecting to the initial aggressor instruction. His ineffective assistance claim therefore fails.

3. Prior out-of-state conviction

Mr. Speegle contends his sentencing range was improperly inflated due to the erroneous inclusion of a Colorado conviction in his offender score. Our review is de novo. *State v. Olsen*, 180 Wn.2d 468, 472, 325 P.3d 187 (2014).

Under the Sentencing Reform Act of 1981 (SRA), chapter 9.94A RCW, in calculating an offender score, prior out-of-state convictions may be counted if they are comparable to a Washington crime. RCW 9.94A.525(3). The State holds the burden of proving the offenses are comparable. *State v. Thomas*, 135 Wn. App. 474, 483, 144 P.3d 1178 (2006).

"'Comparability is both a legal and a factual question.'" *State v. Wilson*, 170 Wn.2d 682, 690, 244 P.3d 950 (2010) (quoting *State v. Collins*, 144 Wn. App. 547, 553, 182 P.3d 1016 (2008)). Courts conduct a two-step comparability analysis to determine whether an out-of-state conviction should count as part of a defendant's offender score. *Olsen*, 180 Wn.2d at 472-73. First, courts compare the elements of the out-of-state offense with the elements of the comparable Washington offense, both as defined on the

date the out-of-state offense was committed. *Id*. The crimes are comparable if the elements of the out-of-state crime are identical to or narrower than the Washington crime. *State v. Davis*, 3 Wn. App. 2d 763, 771, 418 P.3d 199 (2018).

If the elements are comparable, the out-of-state conviction is counted in calculating the offender score. *Thomas*, 135 Wn. App. at 485. But if the elements of the foreign conviction are different or broader than the Washington equivalent, courts look to the conduct underlying the out-of-state conviction to determine whether it would have violated the comparable Washington statute. *Id.*; *State v. Morley*, 134 Wn.2d 588, 605-06, 952 P.2d 167 (1998). Only undisputed facts previously admitted, stipulated to, or proved beyond a reasonable doubt are considered. *Davis*, 3 Wn. App. 2d at 772.

Mr. Speegle committed the assault in Colorado on February 16, 2014. The Colorado statute defining third degree assault at the time provided: "A person commits the crime of assault in the third degree if . . . [t]he person knowingly or recklessly causes bodily injury to another person or with criminal negligence the person causes bodily injury to another person by means of a deadly weapon." Former COLO. REV. STAT. ANN. § 18-3-204(1)(a) (2012). As made clear by Colorado's model criminal jury instructions, this statute encompasses two different versions of assault: (1) by knowingly or recklessly

causing harm to another *or* (2) negligently causing harm to another by means of a deadly weapon.

At Mr. Speegle's sentencing hearing, the court agreed with the State that the Colorado statute was comparable to Washington's offense of third degree assault. In 2014, the Washington statute provided: "A person is guilty of assault in the third degree if he or she . . . [w]ith criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm." RCW 9A.36.031(1)(d).

Comparing the two statutes, the Colorado assault statute is broader than Washington's. Both statutes cover negligently causing harm by means of a weapon. But Colorado's statute also covers knowingly or recklessly causing harm, regardless of the presence of a weapon. Given it is broader, Colorado Revised Statute Annotated § 18-3-204(1)(a) is not legally comparable to Washington's third degree assault statute, RCW 9A.36.031(1)(d).

Because the Colorado and Washington offenses are not legally comparable, we turn to factual comparability. This involves an assessment of whether the facts admitted, stipulated to, or proved beyond a reasonable doubt at the time of the Colorado conviction

are comparable to Washington's third degree assault statute. *See Thomas*, 135 Wn. App. at 485.

Here, the Colorado sentencing order states Mr. Speegle pleaded guilty to "Assault 3-Know/Reckless Cause Injury." CP at 46, 52 (some capitalization omitted). This suggests Mr. Speegle was convicted of the version of the Colorado statute that is not comparable to Washington's third degree assault statute. However, the record on this issue is not necessarily complete. We therefore remand for resentencing, at which time the parties may expand the record to include additional evidence and request any lawful sentence. *See* RCW 9.94A.530(2); *State v. Jones*, 182 Wn.2d 1, 338 P.3d 278 (2014).

4. Fair and impartial hearing by a fair and impartial judge

Mr. Speegle claims he was deprived of his right to be sentenced in a fair and impartial hearing by a fair and impartial judge when the court made disparaging remarks during sentencing. This argument was not raised to the trial court. Thus, to the extent Mr. Speegle's argument is that the trial judge violated the nonconstitutional appearance of fairness doctrine, his claim has been waived. *State v. Tolias*, 135 Wn.2d 133, 140, 954 P.2d 907 (1998). To the extent Mr. Speegle's argument is that he was deprived of his due process right to a fair hearing, relief turns on whether he can demonstrate a manifest constitutional error. *See* RAP 2.5(a)(3).

"A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133, 136, 75 S. Ct. 623, 99 L. Ed. 942 (1955). An impartial tribunal is one marked by the absence of actual or apparent bias. *See State v. Post*, 118 Wn.2d 596, 618, 826 P.2d 172, 837 P.2d 599 (1992). We presume judges act without bias. *Pers. Restraint of Davis*, 152 Wn.2d at 692. "The party seeking to overcome that presumption must provide specific facts establishing bias. Judicial rulings alone almost never constitute a valid showing of bias." *Id*.

Mr. Speegle does not point to any extrinsic evidence of bias; instead, his challenge is based solely on the following comments made by the trial court at sentencing:

> I will note that I have reviewed all of the letters that were received asking for leniency for this defendant. There were some things that stood out about those letters—I certainly respect folks submitting letters and—I—I always like to consider them for the weight that is appropriate.
>
> One thing that stood about—stood out about the letters that—that were received and reviewed is that I didn't see any from anyone who was there at the bar that night in January of 2022. So, they could talk about how hardworking Mr. Speegle is and what a—how hard he's been trying and there's a lot of wonderful things they could say about Mr. Speegle and I have every reason to believe what they were telling me; but they weren't there that night and they didn't see it. At least not any indication from any of the letters that I saw.
>
> Nor was there any indication that anyone who wrote the letters witnessed the video that was Exhibit 1 at the trial—the surveillance video that is, I think, probably the best evidence of what actually took place that day. That night.
>
> I don't recall any of the letter writers being here for the trial itself and hearing the testimony. In fact, I think it was only Mr. Speegle's parents

and significant other. If there was anyone else that was present for the trial itself I don't—I don't recall them. Point being, I may be looking at things other than what the letter writers were looking at. And I want to be clear about that.

There are certainly plenty of cases in the course of human events where people are entrepreneurial, hardworking, trying their best and have many wonderful qualities and then they go and they commit yet another violent felony crime. And the statute doesn't—the—the law doesn't distinguish be—it doesn't say well, if someone is king [sic], gentle, hardworking, and entrepreneurial it cancels out the commission of yet another violent felony crime.

The law talks about violent felony crime. And that's what the case is about. That's what the jury found. They found that this defendant was an aggressor. The self-defense argument was without any basis. And I think one of the things that really stood out to me, not only was Mr. Speegle—not only did we hear more F-bombs from Mr. Speegle during his testimony than I have ever heard from anyone in thirty years of doing this—being in the law profession.

I have never seen anyone get on the witness stand and express themselves in the way that Mr. Speegle did. And it wasn't just how he expressed it and the F-bombs, it was the intense protestations to the effect that this was ridiculous and this was stupid. I heard that a lot. Many, many times. And if that's the way Mr. Speegle conducts himself in this controlled environment of this courtroom, how in the world could we expect he would conduct himself in any way different on the scene, in a bar, after drinking beer?

. . . [O]ne thing that . . . stood out about . . . the video from outside the bar. Police officers roll up, they've got Mr. Speegle on the video. His animated, intense F-bomb laden way of expressing himself, I thought whoa, is this a—an indicator that this defendant had imbibed a bunch of alcohol and it affected his behavior? Well, after I saw him on the witness stand, I had to reexamine that. Apparently, it's not, that's just the way Mr. Speegle acts. That's the way he conducts himself.

. . . [Defense counsel] did everything humanly possible to defend Mr. Speegle and establish that self-defense. He just didn't have it. It wasn't in the video. The blood was on the wrong side of the head. There was nothing

> in the video to show—to support that Mr. Speegle was cracked by a bottle. Zero. None.
>
> He was mad. He was mad because the beer was poured on him. He was mad because someone was trying to take his beer. He was made [sic] because he was being asked to leave the bar. All of those letter writers, they don't get it. They didn't see it. They really don't know what they're talking about. Mr. Speegle was mad.
>
> The jury didn't find the self-defense argument had any merit. The video showed it had no merit. It was something he came up with and he argued about why this was so ridiculous and stupid, this whole process.
>
> And so, one—the other thing that I didn't hear, and I know Mr. Speegle wants the Court to believe he has all this remorse, I think the only remorse he's got is that the def—that the jury didn't buy his argument. One time, I was listening, one time and only one time during the trial, unless I missed it, and I was here. Only one time did he say anything about how he felt badly about Mr. Seims. One time.
>
> And the thing that really stands out about it is even if the jury had believed Mr.—Mr. Speegle, he agrees his whole story is that he mistakenly hit Mr. Seims thinking that Mr. Seims had—had done something to him—had cracked him with the bottle. Well, guess what? Mr. Seims hadn't cracked him with the bottle. That wasn't true at all. And so, by his own story, he hit Mr. Seims by mistake.
>
> I would have thought there'd be some remorse about that. And I saw none. I have still seen none. I see remorse that Mr. Speegle has put himself in yet another violent felony crime conviction situation. And I feel badly for him. I'm sure there's lots of wonderful things about Mr.—Mr. Speegle. But like I say, it doesn't cancel out the commission of a crime.
>
> . . . .
>
> And by the way, Exhibit 1, the video, the surveillance video, he didn't just punch him. He pushed him and he cocked his hand back again and he, but for the grace of God, he would have punched him in the face again. I watched it. It was right there. I don't know if anybody else saw it, but it was plain as day to me.

2 RP (Nov. 15, 2022) at 658-63.

Nothing about these comments indicates the court was predisposed to rule against Mr. Speegle before hearing the evidence presented at trial and sentencing. Once the court considered the case, it was entitled to enter a ruling adverse to Mr. Speegle and to explain its reasons for so doing. "It is not evidence of actual or potential bias for a judge to point out to a defendant the harm caused" by their conduct. *State v. Worl*, 91 Wn. App. 88, 97, 955 P.2d 814 (1998).

Mr. Speegle cites to *State v. Lemke*, 7 Wn. App. 2d 23, 434 P.3d 551 (2018), where the trial court was reversed based on inappropriate statements directed toward the defendant. But *Lemke* is readily distinguishable. The trial judge in *Lemke* addressed the defendant using profane and disparaging language. That did not happen here. Instead, the court criticized Mr. Speegle's legal arguments and his failure to accept responsibility for his actions. These comments amount to a rejection of Mr. Speegle's legal position, not a biased personal attack. Mr. Speegle has not shown a manifest violation of his due process right to a fair hearing.

LFOs

Mr. Speegle challenges the imposition of two LFOs: a supervision fee and a crime victim penalty assessment. Under current law, supervision fees are prohibited. RCW 9.94A.703. And the crime victim penalty assessment may not be imposed against

defendants who are "indigent" as defined by RCW 10.01.160(3). RCW 7.68.035(4). Because we are remanding this matter for resentencing, Mr. Speegle may raise his objections to the LFOs at his resentencing hearing.

CONCLUSION

Mr. Speegle's conviction is affirmed. We remand this matter for resentencing.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Pennell, J.

I CONCUR:

Staab, J.

LAWRENCE-BERREY, C.J. (concurring) — I agree with the majority opinion, but write separately to ask the trial court to reconsider its decision to impose a high-end standard range sentence. If a picture is worth a thousand words, a video is worth ten thousand.

The bartender testified that she threw a beer at Mr. Speegle in self-defense as he reared back to hit her. The video refutes this.

The video shows that Mr. Speegle had turned to walk out of the bar, and that the bouncer had come between the bartender and Mr. Speegle and was guiding Mr. Speegle toward the door. Mr. Speegle's back was turned to the bouncer and the bartender. The bartender, with the beer bottle in her hand, reached over and around the bouncer, and quickly shook the upturned bottle over Mr. Speegle's head until it emptied. The last shake of the bottle arguably hit the top of Mr. Speegle's head. Mr. Speegle ducked, trying to avoid the beer, turned, likely did not see the bartender because she was hidden behind the bouncer, and hit the only person he thought might have assaulted him.

Whether the bottle hit the top of Mr. Speegle's head makes no difference. An assault includes an offensive touching, irrespective of any resulting injury. *State v. Elmi*, 166 Wn.2d 209, 215 n.3, 207 P.3d 439 (2009). Pouring a beer over a person's head is an assault. The bartender's assault on Mr. Speegle caused Mr. Speegle to assault the bouncer.

If these facts were presented in the context of a civil trial, Mr. Speegle could have joined the bartender in the litigation, and argued that the bartender was nearly entirely at fault for the bouncer's broken nose. The bartender knew that Mr. Speegle was highly agitated, yet provoked his response by pouring a beer over his head as he attempted to leave.

Mr. Speegle's criminal history elevates his sentencing range, and need not be a separate factor to increase his sentence. Mr. Speegle's failure to show remorse for breaking the bouncer's nose and his hostility about the proceedings likely contributed to the jury's verdict. Nevertheless, the fact established by the video remains: the assault would not have occurred but for the bartender first assaulting Mr. Speegle. Respectfully, I would ask the trial court to reconsider its decision to impose a high-end sentence.

Lawrence-Berrey, C.J.

APPENDIX B

Tristen L. Worthen
Clerk/Administrator

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October 17, 2024

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CASE # 393542
State of Washington v. Chase Allen Speegle
DOUGLAS COUNTY SUPERIOR COURT No. 2210001109

Counsel:

Enclosed please find a copy of an order filed by the court today denying appellant Chase Allen Speegle's motion for reconsideration of this court's September 12, 2024, opinion.

A party may seek discretionary review by the Washington Supreme Court of a Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review of the September 12 opinion must file a petition for review in this court within 30 days after the order on reconsideration is filed. RAP 13.4(a). Please file the petition electronically through the court's e-filing portal. The petition for review will then be forwarded to the Supreme Court. The petition must be received in this court on or before the date it is due. RAP 18.5(c).

If the party opposing the petition for review wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service on that party of the petition. RAP 13.4(d). The address of the Washington Supreme Court is Temple of Justice, P.O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Tristen L. Worthen
Clerk/Administrator

TLW:btb
Attachment

FILED
OCTOBER 17, 2024
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

STATE OF WASHINGTON, Respondent, v. CHASE ALLEN SPEEGLE, Appellant.	)	No. 39354-2-III ORDER DENYING MOTION FOR RECONSIDERATION

THE COURT has considered appellant Chase Allen Speegle's motion for reconsideration of this court's September 12, 2024, opinion; and the record and file herein.

IT IS ORDERED that the appellant's motion for reconsideration is denied.

PANEL: Judges Pennell, Lawrence-Berrey, and Staab

FOR THE COURT:

ROBERT LAWRENCE-BERREY
Chief Judge

DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Petition for Review to the Supreme Court** to which this declaration is affixed/attached, was filed in the **Court of Appeals** under **Case No. 39354-2-III**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office / residence / e-mail address as listed on ACORDS / WSBA website:

☒ respondent Ethan Morris, DPA
[emorris@co.douglas.wa.us]
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Douglas County Prosecutor's Office

☐ petitioner

☐ Attorney for other party

NINA ARRANZA RILEY, Paralegal
Washington Appellate Project

Date: November 18, 2024

Worthen, Tristen

From: Nina Riley <Nina@washapp.org>
Sent: Monday, November 18, 2024 4:00 PM
To: DIV3 COURT EMAIL
Cc: emorris@co.douglas.wa.us; DCPAintake@co.douglas.wa.us; Ariana Downing; wapofficemail
Subject: FOR FILING IN COA 39354-2, STATE V. CHASE SPEEGLE
Attachments: washapp.111824-07.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

The following document (attached) is being submitted for filing in this Court:

Petition for Review

Service is effected by cc e-mail to the parties.

Thank you.

WASHINGTON APPELLATE PROJECT
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