This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0240

State of Minnesota,
Respondent,

vs.

Robert Darrell Boettcher,
Appellant.

Filed December 1, 2025
Reversed and remanded
Larkin, Judge

Ramsey County District Court
File No. 62-CR-23-6230

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie L. Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Wheelock, Judge; and Florey, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges his conviction of third-degree burglary, arguing that he is entitled to a new trial because the district court independently investigated facts underlying its decision to admit evidence over his objection. We reverse and remand.

FACTS

Respondent State of Minnesota charged appellant Robert Darrell Boettcher with third-degree burglary. At Boettcher's jury trial, the state introduced video surveillance footage, which showed two men arriving at an Arden Hills bingo hall, in a maroon SUV. The video also showed the men forcibly entering the bingo hall and unsuccessfully attempting to access an ATM before fleeing. Boettcher testified in his own defense at trial and denied any involvement in the burglary.

During its investigation of the break-in, the state received Boettcher's name as a person known to use the vehicle shown in the surveillance footage. The state also received a phone number for Boettcher from Boettcher's probation officer and executed a search warrant for the phone's call-data records. Boettcher testified that he had access to the phone number in question because it belonged to his father but denied that the phone number belonged to him.

At trial, the state introduced reports showing data and records from the service provider for the phone number in question. A representative from the service provider testified regarding the veracity of the reports. The representative also explained that the reports show the cell tower number that processed the calls associated with the phone

number listed in the report. Although the representative testified that geographical locations of the cell towers in the reports can be located based on the service provider's cell-site list, the record did not contain the correlating cell-site list.

The state also offered testimony from the certified crime and intelligence analyst who processed the phone data that the state had received from the service provider. The state's witness testified that she assists criminal investigators by using software called CellHawk to process phone data. She testified that she received 12 or 13 different files from the service provider related to the phone number in this case. But the trial record included only three documents from the service provider. The CellHawk report included a visual representation of two cell towers with correlating geographic locations on a map—one in Andover near Boettcher's father's home and another in Roseville near the burglarized bingo hall. On cross-examination, the state's witness testified that the three exhibits in the record showing the phone data from the service provider did not show the geographic locations of the cell towers.

Boettcher's counsel objected to the witness's testimony, asserting that the state's witness was not an expert in regard to the CellHawk report. Counsel also objected to the CellHawk report on the basis that the exhibit "lacks enough foundation to reliably connect the information that is purported to be mapped to the information" in the record.

In overruling the defense's objection, the district court judge stated:

> I'll also note that, from the Court's previous experience with this type of technology and this type of testimony, that the cell ID tower and the associated latitude and longitude is all publicly accessible information that is, for the most part, very

> easy to verify. *And I'll admit to having verified it during examination.*
>
> I guess to be -- to be frank about it, with respect to the Andover line of questioning, the applicable cell tower is 190345; and with respect to the Roseville/Rosedale issue, the applicable cell ID is 491477. That information was provided in Exhibit 18 and does, I think, allow [the state's witness] properly to testify to the results of the examination that she ran, which I do believe are -- were produced and run reliably; but *I'll admit that a large part of the reason the objection was overruled is because of information that the Court has otherwise received previously in other cases but was not necessarily presented or articulated well in this case. I'll be up front about that.*

(Emphasis added). The jury found Boettcher guilty as charged. The district court entered a judgment of conviction and sentenced Boettcher to serve 58 months in prison.

Boettcher appeals.

DECISION

Boettcher contends that the district court deprived him of his constitutional right to an impartial judge. In lieu of a response brief, the state filed a status letter with this court stating, "Based on the authority cited in Appellant's brief, Respondent agrees that Appellant's conviction should be vacated and the case should be remanded for a new trial." Although the state does not oppose Boettcher's appeal, we have an independent obligation to decide cases according to the law. *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990).

The United States and Minnesota Constitutions "entitle criminal defendants to due process." *State v. Duol*, 25 N.W.3d 135, 141 (Minn. 2025). Due process includes the "fundamental right to a fair trial and a fair and impartial judge." *Id.* (quotation omitted).

"[A]n impartial trial process 'requires that conclusions reached by the trier of fact be based upon the facts in evidence,' and 'prohibits the trier of fact from reaching conclusions based on evidence sought or obtained beyond that adduced in court.'" *Id.* (quoting *State v. Dorsey*, 701 N.W.2d 238, 249-50 (Minn. 2005)). Thus, there is a "bright-line rule" that judges may not independently investigate "facts in evidence—regardless of whether the evidence and investigation involve immutable facts." *Dorsey*, 701 N.W.2d at 251. The Minnesota Supreme Court has repeatedly affirmed this principle. *State v. Lopez*, 988 N.W.2d 107, 119 (Minn. 2023); *Duol*, 25 N.W.3d at 141-42.

The supreme court recently clarified that this bright-line rule is separately and independently guaranteed by the Due Process Clause of the Minnesota Constitution, Minn. Const. art. I, § 7. *Duol*, 25 N.W.3d at 144. In so holding, the supreme court explained that when a district court judge engages in independent investigations of facts in evidence:

> they no longer act as a fair and impartial judge. *We have never recognized an exception to this guardrail.* Even though we have acknowledged that adopting a more flexible standard may result in a less distasteful outcome in some cases, we have said that our failure to apply this rule uniformly would permanently compromise the bedrock principle in our criminal justice system that judges may not investigate or rely upon extra-record knowledge when sitting as the finder of fact.

Id. at 141 (emphasis added) (quotations omitted). Thus, a judge has a "duty to refrain from conducting their own factual investigations." *Id.* at 142. And "a judge must maintain the integrity of the adversary system at all stages of the proceedings." *Id.* (emphasis omitted) (quotation omitted). "[T]he very '*act* of seeking information outside the record effectively

transform[s] the court into an investigator . . . thereby eliminating any vestige of impartiality.'" *Id.* at 143 (quoting *Lopez*, 988 N.W.2d at 119).

Boettcher's "contention that he was denied the constitutional right to an impartial judge is a legal question, which we review de novo." *Id.* at 141. The denial of a defendant's right to an impartial judge is a structural error that warrants automatic reversal. *Id.* at 136.

Boettcher argues that the district court judge deliberately and independently investigated information about two cell-tower locations and relied on evidence admitted in unrelated cases to overrule Boettcher's objections to the state's witness testimony and the CellHawk report. To support his argument, Boettcher points to the district court judge's reasons for overruling his objection, noting the judge's statement that, based on the court's "previous experience with this type of technology and this type of testimony, . . . the cell ID tower and the associated latitude and longitude is all publicly accessible information that is, for the most part, very easy to verify." The judge then stated, "I'll admit to having verified it during examination." The judge further explained, "I'll admit that a large part of the reason the objection was overruled is because of information that the Court has otherwise received previously in other cases but was not necessarily presented or articulated well in this case. I'll be up-front about that."

Boettcher argues that the "judge's investigation here is like the investigations in other cases where our appellate courts have held that the judge committed structural error requiring reversal." Boettcher principally relies on *Dorsey* to support his argument. 701 N.W.2d at 238.

In *Dorsey*, the district court judge doubted a factual assertion made by a defense witness because the judge had extra-record knowledge regarding the underlying fact. *Id.* at 243. The judge asked a law clerk to investigate the witness's factual assertion, which proved to be inaccurate. *Id.* The judge noted the discrepancy on the record and in a written order. *Id.* at 243-45. The district court found Dorsey guilty, based in part on the defense witness's lack of credibility. *Id.* at 245.

On appeal, Dorsey argued that the district court judge was not impartial because she had openly questioned the defense witness's testimony, independently investigated the witness's factual assertion, and revealed the results of her investigation in open court. *Id.* at 249. The supreme court concluded that the district court judge erred primarily for the reasons identified by Dorsey. *Id.* at 250-52. The supreme court explained that, had the judge set aside her extra-record knowledge and "decided the case based on the merits of the evidence the parties presented, Dorsey would have no basis to assert he was denied a fair trial." *Id.* at 253. But the judge's investigation, prompted by the extra-record knowledge, deprived Dorsey of his right to a fair trial before an impartial judge. *Id.*

Like the judge in *Dorsey*, whose extra-record knowledge prompted an investigation into the factual assertions of a key witness, the judge in this case stated that he knew, based on the court's "previous experience" in other cases, that the location of the cell towers was publicly accessible information. The judge then admitted that he verified the locations of the cell towers during the witness's examination. Also like the judge in *Dorsey*, the judge in this case revealed the results of his findings to the parties and explained the confirmatory results regarding the geographic locations of the cell towers.

On this record, we conclude that the district court deprived Boettcher of his constitutional right to an impartial judge, by "seeking information outside the record" and effectively transforming the court into an investigator, "thereby eliminating any vestige of impartiality." *Duol*, 25 N.W.3d at 143 (quotation omitted). The resulting structural error warrants automatic reversal. *Id.* at 136. We therefore reverse and remand for a new trial.

Reversed and remanded.