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A24-1451

STATE OF MINNESOTA

IN SUPREME COURT

State of Minnesota,

Respondent,

vs.

Mervel George Jones, III,

Appellant.

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A24-1451

STATE OF MINNESOTA

IN SUPREME COURT

State of Minnesota,

Respondent,

vs.

Mervel George Jones, III,

Appellant.

PROCEDURAL HISTORY

Feb. 3, 2022	The state charged appellant Mervel Jones with first-degree assault, domestic assault, and fleeing.
Jan. 8-12, 2024	The Honorable Matthew M. Quinn presided over a jury trial. The jury found Jones guilty on all counts.
June 13, 2024	The district court committed Jones to prison.
Sept. 11, 2024	Jones appealed, claiming that under *State v. Dorsey* the district court violated his due process right to an impartial judge.
Oct. 13, 2025	The court of appeals affirmed.
Jan. 21, 2026	This Court granted review.

LEGAL ISSUE

Under this Court's precedent in *State v. Dorsey*, a judge deprives a defendant of their due process right to an impartial judge by independently investigating facts outside of the record. This Court has never recognized an exception to this "bright-line rule." Did the district court violate *Dorsey* and deprive Jones of his right to an impartial judge when it independently investigated Jones's criminal records, relied upon extra-record facts to determine that Jones waived his right to be present at trial, and disclosed the results of its independent investigation in open court?

Rulings below:

Following an evidentiary hearing inquiring into Jones's absence from court, the district court judge independently obtained and reviewed Jones's criminal records and revealed the results of that investigation when announcing his determination that Jones had waived his right to be present at trial.

The court of appeals affirmed, concluding that the judge's independent factual investigation was exempt from the rule in *Dorsey* and justified based on the "unique circumstance" of having to inquire into Jones's absence from court. *State v. Jones*, No. A24-1451, 2025 WL 2902129, at *5 (Minn. App. Oct. 13, 2025).

Apposite authority:

State v. Duol, 25 N.W.3d 135 (Minn. 2025)

State v. Dorsey, 701 N.W.2d 238 (Minn. 2005)

STATEMENT OF THE CASE

The state charged appellant Mervel Jones III in Mille Lacs County District Court with first-degree assault under Minn. Stat. § 609.221, subd. 1 (2020), domestic assault under Minn. Stat. § 609.2242, subd. 4 (2020), and fleeing under Minn. Stat. § 609.487, subd. 6 (2020).

The matter proceeded to jury trial before the Honorable Matthew M. Quinn. On the third day of trial, Jones did not appear. After holding an evidentiary hearing addressing Jones's absence, Judge Quinn conducted his own factual investigation. He obtained and reviewed court records dating back to the year 2000 to gain additional facts about Jones and disclosed the results of that investigation in court when announcing his finding that Jones's had waived his right to be present. At the end of trial, the jury found Jones guilty on all counts, and Jones was sentenced to 192 months in prison.

Jones appealed, arguing that the district court violated his right to an impartial judge by conducting an independent fact investigation, relying upon extra-record facts, and announcing the results of its independent investigation in open court, in contravention of the constitutional rule recognized in *State v. Dorsey*, 701 N.W.2d 238 (Minn. 2005). The court of appeals affirmed. It reasoned that due to "the unique circumstances" of the case the bright-line rule identified in *Dorsey*, and reaffirmed in *Duol*, did not apply to this case and the district court's independent extra-record investigation was justified because the district court was required to inquire into Jones's absence from trial. *State v. Jones*, No. A24-1451, 2025 WL 2902129, at *5 (Minn. App. Oct. 13, 2025).

This Court granted review of Jones's *Dorsey* claim.

STATEMENT OF THE FACTS

In February 2022, Jones was charged with assaulting his significant other and fleeing on foot in connection with his subsequent arrest. (Doc. No. 1). The Honorable Matthew M. Quinn presided over the case, and the matter proceeded to a jury trial.[1]

A. Judge Quinn's on-the-record inquiry into Jones's absence from court.

On the third day of trial, Jones did not appear. (T 307). Judge Quinn explained that, under *State v. Finnegan*, 784 N.W.2d 243 (Minn. 2010), he had to make a sufficient inquiry into the circumstances of Jones's absence before continuing with trial. (T 307-08). Judge Quinn noted that he received news that a sheriff's sergeant who works in the courthouse had relevant information regarding Jones's recent activities and current status. (T 307-08). The judge first inquired of the attorneys. (T 308-10). Defense counsel reported that he called and texted Jones but received no answer; he explained that Jones usually answers his phone calls and that was their usual way of contacting each other. (T. 309). Counsel stated that he had not received any indication that Jones would not be present. (T 309). The state declined to introduce any evidence into the record.

Judge Quinn held an evidentiary hearing with the parties' attorneys to more adequately inquire into Jones's absence and whether he waived his right to be present. (T 310). Pursuant to Rule 614(a) of the rules of evidence, which permits a district court to call its own witnesses, Judge Quinn called the sheriff's sergeant to testify as a fact witness. (T 310). The sergeant testified that as a "transport court security sergeant" his responsibilities

[1] "T" refers to the transcript of the jury trial held January 8-12, 2024.

include determining if "any[one] [who] shows up for court or might show up for court" has an active warrant for their arrest. (T 311-12). The sergeant testified that he ran Jones for warrants and learned from a computer entry that the Department of Corrections (DOC) issued a "release violator" warrant for Jones for having cut off his DOC ankle monitor and leaving his treatment facility around 10:30 p.m. the previous night. (312-13). He confirmed that Jones was currently "wanted" by the DOC. (312). The deputy further testified that he was familiar with DOC ankle monitors and personally observed Jones wearing an ankle monitor in court the previous two days of trial. (T 313-14).

After the evidentiary hearing concluded, the judge and attorneys addressed other trial business and took a break. (T 315-28).

B. Judge Quinn's independent investigation into Jones's criminal records.

While in recess, unbeknownst to the parties, Judge Quinn sought and reviewed records from other district court files, including juvenile and other confidential records dating back to 2000, that involved Jones. (T 329).

After recess, Judge Quinn announced his finding that Jones voluntarily waived his right to be present and cited the facts that "contribute to this finding." (T 328). Judge Quinn first noted the *record* facts that the state filed an aggravated sentence notice in this case, there had been discussions regarding a potentially lengthy sentence, and Jones had been released from prison just a month and a half earlier and was currently on intensive supervised release and, therefore, "was well aware of the system and how it works." (T 328-29). Judge Quinn then disclosed *extra-record* facts that he obtained from other court records:

> There is an order from Chief of our District Judge, Sarah Hennesy, in a 2015 file that finds [Jones] a danger to public safety, so he would be on notice of, you know, knowledge of that order -- that finding. MNCIS has records that go back a fair bit. The first one dated for Mr. Jones is the year 2000. He was still a juvenile, but since then 33 warrants have been issued against him, as an approximate number. There could be more, because MNCIS is a party-based system. If his name wasn't linked to those incidents properly, there could be more than that. But, it's at least 33.
>
> And then according to the 2015 Presentence Investigation that produced Chief Hennesy's danger to public safety order, it's noted that he's a former member of the Native Mob street gang and has "Native Mob" tattooed on his forearm.
>
> So, it's clear to me [Jones has] absented himself intentionally, it's voluntary, and defendant has intentionally abandoned a known right to be present at trial.

(T 329). Trial continued without Jones.

C. The appeal

On appeal, as relevant here, Jones claimed that the district court demonstrated emergent bias under *State v. Dorsey*, 701 N.W.2d 238 (Minn. 2005). He argued that Judge Quinn's act of independently seeking and obtaining extra-record information by reviewing his criminal records deprived him of his right to an impartial judge and created a structural error. Jones also argued that Judge Quinn violated his right to an impartial judge by further disclosing the results of his independent investigation in open court and considering extra-record facts in deciding that he waived his presence at trial. Jones argued that because the uniformly applied rule established in *Dorsey* prohibits the judicial conduct that occurred here, automatic reversal was required.

The court of appeals agreed that the district court independently investigated and "gathered" extra-record facts from other court files. *Jones*, 2025 WL 2902129, at *5. The court of appeals also acknowledged that *Dorsey* preserved "the bright-line rule" that

prohibits a judge from investigating facts in evidence, a due process principle that this Court reaffirmed during the pendency of Jones's appeal in *Duol*. *Id.* at *4. Nonetheless, the court of appeals held that, because Judge Quinn had an obligation to inquire into the voluntariness of Jones's absence at trial, the due process prohibitions identified in *Dorsey* and *Duol* did not apply and Judge Quinn was justified in independently investigating facts in Jones's criminal records. *Id.* at *5.

This Court granted review.

ARGUMENT

A new trial is required because Judge Quinn deprived Jones of his right to an impartial judge when he conducted a deliberate independent fact investigation into Jones's criminal records, considered that extra-record information in determining that Jones waived his right to be present, and disclosed the prejudicial results of the investigation in court.

In direct contravention of due process requirements of impartiality, the district court judge became an independent investigator in the matter before him. The judge deliberately conducted an independent fact investigation into Jones's prior records, relied on what he learned from that investigation to inform whether Jones waived his right to be present at trial, and disclosed the highly prejudicial results of his investigation in open court. This conduct is a textbook example of constitutional error under *Dorsey*.

Contrary to the court of appeals' conclusion, Judge Quinn's independent extra-record investigation was neither justified by the "unique circumstances" of the case nor exempt from due process principles identified in *Dorsey*, which uniformly bar a court from independently investigating facts or deciding issues beyond the facts presented in court. As this Court has done in the past, it must reject the court of appeals' flexible application of *Dorsey*, reaffirm the uniform application of the constitutional doctrine, and hold that the district court's deliberate independent fact investigation deprived Jones of his due process right to an impartial judge. A new trial must be granted to remedy this structural error.

A. This Court reviews de novo whether a judge deprives a defendant of the right to an impartial judge.

Jones's claim that he was denied his constitutional right to an impartial judge is a legal question, which this Court reviews de novo. *State v. Lopez*, 988 N.W.2d 107, 120 (Minn. 2023).

B. The district court judge's independent fact investigation, reliance on extra-record facts, and disclosure of the results of his investigation contravened the clear rule established in *Dorsey* and violated Jones's right to an impartial judge.

The Fourteenth Amendment to the United States Constitution and Article 1, Section 7 of the Minnesota Constitution entitle criminal defendants to due process. U.S. Const. amend. XIV; Minn. Const. art. 1, § 7. These due process rights include the fundamental right to a fair trial and "a fair and impartial judge." *Cuypers v. State*, 711 N.W.2d 100, 104 (Minn. 2006) (citing *Bracy v. Gramley*, 520 U.S. 899, 904–05 (1997)); *see also Rose v. Clark*, 478 U.S. 570 (1986) ("The state of course must provide a trial before an impartial judge . . . ."). An impartial court 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." *State v. Dorsey*, 701 N.W.2d 238, 249–50 (Minn. 2005). "This is because the very *act* of seeking information outside the record effectively transforms the court into an investigator thereby eliminating any vestige of impartiality." *State v. Duol*, 25 N.W.3d 135, 143 (Minn. 2025) (citation modified).

In *Dorsey*, this Court recognized there is "a bright-line rule that judges may not engage in independent investigations of facts in evidence." *Dorsey*, 701 N.W.2d at 251;

see also Lopez, 988 N.W.2d at 119 (reaffirming this principle).

In *Duol*, this Court declined to recognize an exception to *Dorsey* and reaffirmed that under the due process guarantees of the state and federal constitutions, "there is a bright-line rule that prohibits the trier of fact from conducting deliberate independent investigations of extra-record facts and then considering those facts." *Id.* at 142 (quotation omitted). In so holding, this Court explained:

> When a district court judge [engages in an independent fact investigation] 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 (quoting *Dorsey*, 701 N.W.2d at 251). This Court clarified that this bright-line rule is separately and independently required by the Due Process Clause of the Minnesota Constitution. *Id.* at 144.

Judge Quinn violated this well-established rule. There is no dispute that after conducting an on-the-record inquiry into Jones's absence, Judge Quinn conducted his own fact investigation by independently obtaining and reviewing Jones's court records, dating back to 2000 when Jones was a juvenile, and used what he learned from those records to find that Jones waived his right to be present at trial. Judge Quinn was prohibited from engaging in this conduct. By deliberately conducting his own investigation of facts, the judge necessarily lost his impartiality—he could "no longer act as a fair and impartial judge." *See id.* at 141. Judge Quinn violated a fundamental principle of judicial neutrality

that broadly prohibits a judge from independently investigating facts or reaching conclusions "based on evidence sought or obtained beyond that adduced in court." *Dorsey*, 701 N.W.2d at 249–50. Judge Quinn's independent investigation into Jones's court records was impermissible no matter the perceived relevance of the extra-record information sought or the circumstances of the case.

The district court's deliberate independent investigation in this case is like the independent investigation into extra-record facts that occurred in *Dorsey*. There, the district court judge had her clerk check court records to confirm the date of a relevant person's death and used that information to assess the credibility of statements that a defense witness made at trial. *Dorsey*, 701 N.W.2d at 243–45. This Court reversed Dorsey's conviction, holding that he was denied his right to an impartial judge. *Id.* at 253.

Similarly, in *Duol*, after an evidentiary hearing on Duol's postconviction claim, the district court sought facts about the criminal history of a defense witness that were not introduced into evidence and used that information in discrediting that witness's testimony. *Duol*, 25 N.W.3d at 137, 139. Applying the bright-line rule preserved in *Dorsey*, this Court held that the district court violated Duol's right to an impartial judge. *Id.* at 142.

The same holding is required here. As finder of fact, Judge Quinn was obligated to inquire into the voluntariness of Jones's absence at trial based on facts presented in court or otherwise a part of the record. He failed that obligation by independently sleuthing and relying on extra-record evidence in that determination. In so doing, the district court deprived Jones of his right to an impartial judge.

The judge's improper conduct did not stop there. Judge Quinn committed an additional constitutional violation by announcing what he learned from his independent investigation in open court. Again, *Dorsey* controls. There, this Court found an additional act of bias in the judge's act of disclosing the results of her investigation in court. *Dorsey*, 701 N.W.2d at 251 (holding that this act too showed the "judge was not impartial"). This Court reasoned that "when a judge possesses extra-record knowledge that is prejudicial to a defendant in a criminal trial, the judge may not disclose that knowledge. Rather, the judge must either disqualify herself or set the knowledge aside and consider only the evidence adduced in deciding the case." *Id.* at 252. In announcing the results of his investigation, Judge Quinn disclosed highly prejudicial details about Jones's past that were not a part of the record in this case. This adverse disclosure included that Jones is a former member of "the Native Mob street gang" and has "'Native Mob' tattooed on his forearm," he has a juvenile record, he has had at least "33 warrants issued against him" but maybe more, and, as discovered in a confidential sentencing record, a different judge found him to be "a danger to public safety." (T 329). And Judge Quinn certainly did not set aside that extra-record information, as was required; he expressly considered it in deciding Jones waived his right to be present at trial. As this Court held in *Dorsey*, a judge who independently investigates a fact not in evidence and reveals the results of that investigation to the parties has deprived the defendant of their constitutional right to an impartial judge. *Id.* at 253. The same conclusion is required here.

Judge Quinn violated clear and fundamental rules of judicial impartiality. Based on this Court's precedents, and their underlying due process guarantees, Judge Quinn's

deliberate independent fact investigation, consideration of extra-record facts, and prejudicial disclosure of the results of that investigation violated Jones's constitutional right to an impartial judge.

C. This Court must reverse the court of appeals' decision and refuse to adopt a circumstance-based exception to *Dorsey*.

Here, for the first time, the court of appeals recognized an exception to the bedrock principle that a judge may not independently investigate facts in evidence or rely on evidence outside of what is presented in court. While knowing that no precedent endorses such an exception, the court of appeals determined that given the "specific, unique circumstances of this case," the bright-line rule in *Dorsey* and *Duol* do not apply. *Jones*, 2025 WL 2902129, at *5. The court of appeals reasoned that, because the district court had to inquire into the voluntariness of Jones's absence at trial, Judge Quinn was authorized to conduct his own investigation of facts outside the record. *Id*.

Contrary to this novel interpretation of the due process rights at stake, Judge Quinn's independent investigation was neither justified by any "unique circumstances" of the case, nor exempt from the constitutional prohibition identified in *Dorsey*, which uniformly bars a court from independently investigating facts in deciding matters that come before it. The decision below was wrongly decided and must not be upheld. For several important reasons, discussed below, this Court should reverse the lower court and decline to recognize an exception to *Dorsey* based on the circumstances the court of appeals identified.

1. The court of appeals' decision contravenes well-established law.

First, the court of appeals' decision is simply untethered from precedent. Since 2005, the law in Minnesota has been that the constitutional principle that a judge may not independently investigate facts in adjudicating matters that come before it is one of "uniform," not "flexible," application. *See Dorsey*, 701 N.W.2d at 251; *see also Duol*, 25 N.W.3d at 141. And there is no caselaw that authorizes the judicial conduct that took place here or supports any exception to "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." *Dorsey*, 701 N.W.2d at 251. The reason there is no authority supporting the court of appeals' decision is an important one: the bright-line rule prohibiting independent judicial fact investigations is not just a desirable policy this Court has opted to put in place, it is a due process "requirement." *See Duol*, 25 N.W.3d at 144 (holding "due process *requires* a bright-line rule prohibiting independent judicial investigations into facts outside the record" (emphasis added)).

The court of appeals' determination that Judge Quinn was free to conduct his own factual investigation depends upon a flexible interpretation of *Dorsey*, one that accepts that in some circumstances a court ought to be allowed to conduct its own investigation. Because this is the same rationale that this Court rejected in *Dorsey*, the court of appeals' reasoning is not just unconvincing but unmoored from the relevant jurisprudence. *See Dorsey*, 701 N.W.2d at 251 (rejecting dissent's position that judges should be allowed to investigate to confirm "immutable facts" and preserving a uniform rule). The decision below represents a significant and unsound departure from this Court's precedents and the

due process "guardrail" they preserve. The decision must be reversed.

2. *Finnegan* does not establish an exception to *Dorsey*.

Second, the lower court's reliance on *State v. Finnegan*, 784 N.W.2d 243 (Minn. 2010) to support a *Dorsey* exception is misplaced. *See Jones*, 2025 WL 2902129, at *5. *Finnegan* instructs, "When a defendant fails to appear for trial, the district court must make a sufficient inquiry into the circumstances of the defendant's disappearance to justify a finding whether the absence was voluntary." *Finnegan*, 784 N.W.2d at 250 (quotation omitted).[2] Because of this requirement, the court of appeals determined that the prohibition identified in *Dorsey* and *Duol* did not apply and therefore did not bar Judge Quinn from conducting his own investigation and obtaining and considering Jones's criminal records. *Jones*, No. A24-1451, 2025 WL 2902129, at *5. In other words, according to the court of appeals, *Finnegan* provides a special exemption from the uniformly applied rule that prohibits a judge from engaging in an independent fact investigation or relying upon extra-record facts. The court of appeals is wrong.

The requirement to sufficiently inquire into the voluntariness of a defendant's absence at trial does not authorize (let alone necessitate) an independent fact investigation. This Court said nothing in *Finnegan* about a judge *independently* obtaining or weighing facts beyond those developed in court in making the required findings, and nothing in *Finnegan* sanctions or even encourages such conduct. The decision in *Finnegan* simply did

[2] This Court also clarified that district court must "efficiently" make its finding, and it set out a postconviction framework, which is not at issue here, for later rebutting that finding. *Finnegan*, 784 N.W.2d at 250.

not address the bright-line rule in *Dorsey* or the judicial conduct at issue here, and the court of appeals' reliance on *Finnegan* to hold that a carve-out exists to a bedrock constitutional rule is misplaced. *Finnegan* did not establish a *Dorsey* exception; that is, it did not provide that, under certain circumstances, a defendant's right to an impartial judge can be violated.

Moreover, if *Finnegan*'s "inquire into" directive is read as authorizing a judge to conduct its own, behind-closed-doors investigation of facts, the constitutionality of that decision would have to be seriously called into question. *Duol* is again instructive. There, this Court was asked to interpret a provision of the postconviction statute, which provides that a district court judge presiding over a postconviction hearing "may inquire into . . . any grounds for relief," as empowering the district court to independently investigate extra-record facts. *Duol*, 25 N.W.3d at 142. This Court declined to do so, reasoning that to interpret the postconviction statute as authorizing independent judicial fact investigations would not just strain the statutory text but "raise important questions regarding its constitutionality." *Id.* The same is true here.

3. The directive in *Finnegan* to inquire into a defendant's absence does not necessitate an independent judicial fact investigation.

Having established that *Finnegan* does not authorize an independent judicial fact investigation, it must be stated that it too does not require one. To the extent *Finnegan* requires a district court to adequately develop the record before finding whether a defendant has voluntarily absented themselves from trial, the judge was able to do that here—*without needing to conduct his own investigation*. The record bears this out. With the parties present, Judge Quinn conducted a detailed, on-the-record inquiry into

circumstances of Jones's failure to appear and received evidence regarding Jones's recent activities including: since the previous night, Jones cut off the ankle monitoring device that he had been wearing the previous two days in court, left his treatment facility, absconded supervision, and was on warrant status and "wanted" by the DOC for a release violation. (T 310-14). In addition, the attorneys were permitted an opportunity to cross-examine the fact witness and present additional evidence into the record, and defense counsel was directed to disclose his recent communications with Jones and attempts to reach him, which counsel did. Thus, the court inquired. The court created the necessary record to determine voluntariness.

This on-the-record inquiry shows that the district court knew how to properly inquire into the relevant circumstances and had every ability to do so without running afoul of its duty of impartiality. Thus, the judge's decision to subsequently conduct his own private and sequestered investigation into Jones's criminal records was not just unconstitutional but wholly unnecessary.[3] Neither the directive in *Finnegan* nor the case-specific circumstances justified the court in investigatisng facts on its own or resolving the waiver matter based on facts never adduced in court. The judge's independent investigation was impermissible and gratuitous. Simply, the requirement under *Finnegan* to inquire into

[3] It bears questioning how investigating Jones's criminal records and what Jones was doing years, even decades, earlier was relevant to the matter at hand: what he was doing that morning. Supposed gang connections and prior misdeeds have no bearing on whether he was voluntarily absent that day, and the court's investigation into and ultimate reliance on those inflammatory extra-records facts in its waiver decision makes the court's independent investigation all the more troubling.

the circumstances of Jones's absence neither authorized nor necessitated Judge Quinn's extra-record actions.

4. The requirement to "inquire" into factual circumstances before making a legal determination is not a "unique circumstance" warranting a *Dorsey* exception.

Relatedly, the general premise underlying the court of appeals' decision that an "inquiry" into the voluntariness of a defendant's absence could constitute a "unique circumstance" supporting an independent judicial fact investigation is rather inexplicable. Courts are built to conduct inquiries—it is what they do. Routinely, judges are called upon to "inquire" into factual circumstances to make legal determinations, and they do so in a myriad of contexts, all while being required to maintain judicial impartiality and reach decisions based solely on facts presented in court. *See State v. Bauer*, 245 N.W.2d 848, 856 (Minn. 1976) (court must "inquire" into mental illness and deficiency when presented with uncontradicted suggestion of incompetence); *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994) (court must "inquire" into factual basis for a guilty plea); *State v. Richards*, 552 N.W.2d 197, 210 (Minn. 1996) (court "must inquire" into effects of outside influence on jury when confronted with that possibility); *State v. Munt*, 831 N.W.2d 569, 586 (Minn. 2013) (court must conduct "searching inquiry" into circumstances of alleged ineffectiveness of appointed counsel to determine if substitute counsel is warranted); *State v. Wigham*, 967 N.W.2d 657, 662 (Minn. 2021) (court must inquire into defendant's ability to pay before ordering restitution); Minn. R. Crim. P. 5.04, subd. 1(4) (setting out required court inquiry to establish valid waiver of counsel); *cf.* Minn. Stat. § 590.04, subd. 3 (court "may inquire into" any grounds for relief in postconviction setting). Just as it would be

improper for a judge to *independently* research relevant facts in making any of these determinations, that conduct was improper here.

Furthermore, the fact that a district court is required to develop the factual record is simply not a factor in determining whether a judge's conduct violates the rule established in *Dorsey*, nor is it a compelling reason to carve out an exception to that rule. Contrary to the court of appeals' rationale, Jones's absence from court did not empower Judge Quinn to do what he is *uniformly* prohibited from doing: "conducting deliberate independent investigations of extra-record facts and then considering those facts." *Duol* at 142. *Dorsey* pronounced a rule without exception, and it should apply here irrespective of the type of judicial inquiry at bar.

5. There is no reason to recognize an exception to *Dorsey.*

There is no need for this Court to create a *Dorsey* exception. For two decades, the court of appeals has easily applied *Dorsey* as a bright-line rule and had done so in a straightforward, unremarkable fashion across a wide range of judicial determinations and procedural settings. *See State v. Boettcher*, 2025 WL 3441382, at *4 (Minn. App. Dec. 1, 2025) (extra-record investigation in determining admissibility of evidence at jury trial–*Dorsey* violation); *State v. Bowlby*, No. A25-0086, 2025 WL 1792874, at *4 (Minn. App. June 30, 2025) (extra-record investigation in dismissing counts of complaint for lack of probable cause–*Dorsey* violation); *State v. Scudder*, No. A21-1081, 2022 WL 1532553, at *4 (Minn. App. May 16, 2022) (quick Google search at restitution hearing—*Dorsey* violation); *State v. McCorquodale*, No. A21-0047, 2021 WL 5446915, at *5 (Minn. App. Nov. 22, 2021) (extra-record knowledge not set aside during bench trial–*Dorsey* violation);

State v. Leckner, No. A19-1007, 2020 WL 3172651, at *4 (Minn. App. June 15, 2020) (extra-record investigation into prison treatment options at sentencing–*Dorsey* violation); *Matter of Welfare of A. J. G.*, No. A18-1854, 2019 WL 3000745, at *3 (Minn. App. July 8, 2019) (extra-record investigation verifying "innocuous" fact in juvenile-delinquency proceeding–*Dorsey* violation); *State v. Weidenbach*, No. 16-1166, 2017 WL 1548619, at * 2 (Minn. App. May 1, 2017) (extra-record investigation into co-defendant's PSI at sentencing—*Dorsey* violation); *State v. Blanshan*, No. A14-1065, 2015 WL 4507811, at *2 (Minn. App. July 27, 2015) (consideration of order contained in defendant's other court records following bench trial–*Dorsey* violation).

This history of *nonprecedential* applications of *Dorsey* conveys something obvious though important: the uniform standard is sound and workable, and its broad application has been without qualification. There is no reason for this Court to now create a new rule.

6. Recognizing a *Dorsey* exception in this case would invite additional exceptions, upend the doctrine, and erode judicial impartiality.

Finally, the decision below opens the door to lower courts finding additional *Dorsey* exceptions based other perceived "unique circumstances" or case-specific rationalizations. This would create the exact floodgates-problem—the opening of a "Pandora's box"—that this Court envisioned and attempted to shut in *Dorsey*. *See Dorsey*, 701 N.W.2d at 251 (recognizing that dissent's suggested limited exception "opens a judicial Pandora's box regarding if, when, and how" a judge may independently investigate facts). Accordingly, this Court has repeatedly insisted upon a uniform standard.

But a uniform standard is not just convenient, it is "required." *Duol*, 25 N.W.2d at

141, 144 (holding "due process *requires* a bright-line rule prohibiting independent judicial investigations into facts outside the record" because when a judge engages in that conduct they "no longer act as a fair and impartial judge." (emphasis added)). Allowing an exception to the rule recognized in *Dorsey* would simply upend the doctrine.

Another problem with recognizing even a limited exception to the prohibition against independent judicial fact investigations is that doing so would undermine the core tenet upon which our entire court system depends. *See Greer v. State*, 673 N.W.2d 151, 155 (Minn. 2004) ("[I]mpartiality is the very foundation of the American judicial system."). This Court should thus be very wary of curtailing the fundamental right to an impartial judge and the corresponding rules designed to protect that right. When it comes to independent judicial fact investigations, maintaining a uniformly applied standard is both prudent and necessary to ensure judicial impartiality at all stages of the proceedings, in all decision-making. Accordingly, this Court should again preserve the bright-line rule articulated in *Dorsey* and *Duol* that prohibits a judge from independently investigating facts outside the record and decline to recognize a circumstance-specific exception in this case.

This Court should hold that the district court deprived Jones of his right to an impartial judge because it conducted a deliberate independent fact investigation, considered extra-record information in its waiver decision, and disclosed the prejudicial results from the extra-record investigation in open court in contravention of the bright-line rule of due process preserved in *Dorsey*.

D. The due process violation here is a structural error, requiring automatic reversal.

This Court is required to reverse and remand for a new trial. The "deprivation of the 'basic protection' of an impartial judge is a 'structural error' that requires reversal without questioning whether the error is harmless." *Duol*, 25 N.W.3d at 143 (citing *Dorsey*, 701 N.W.2d at 253). "[S]tructural defects in the constitution of the trial mechanism defy analysis by harmless-error standards." *Id.* (citing *Arizona v. Fulminante*, 499 U.S. 279, 309 (1991)). The United States Supreme Court has specifically identified the denial of the right to an impartial judge as one such structural defect. *Fulminante*, 499 U.S. at 309; *see also Gray v. Mississippi*, 481 U.S. 648, 668, 1 (1987) ("Some constitutional rights are so basic to a fair trial that their infraction can never be treated as harmless error. The right to an impartial adjudicator, be it judge or jury, is such a right." (citation modified)). Accordingly, when a defendant has been deprived of an impartial judge, automatic reversal is required." *Dorsey*, 701 N.W.2d at 253; *see also Lopez*, 988 N.W.2d at 119.

In *Duol*, this Court rejected an argument that the district court's *Dorsey* violation was harmless error because the court's postconviction decision would have been the same regardless of its extra-record investigation. *Duol*, 25 N.W.3d at 143–44. Recognizing that *Dorsey* and *Lopez* foreclose this rationale, this Court emphasized that a deliberate independent investigation and use of extra-record facts is a structural defect "without inquiry into whether the error would have changed the outcome." *Id.* Accordingly, "applying a harmless-error analysis would be inconsistent with the bright-line rule in *Dorsey*," federal due process, and the separate and independent due process guarantee of

the Minnesota Constitution. *See id.* (clarifying that the "bright-line rule prohibiting independent judicial investigations into facts outside the record" and proposition that "such an investigation constitutes a structural error" are guaranteed separately and independently by Minn. Const. art 1 § 7).

By violating *Dorsey*, the district court created a structural defect in Jones's trial. Because Jones's due process rights were violated by the district court's deliberate independent investigation and consideration of extra-record facts, this Court must reverse and remand for a new trial.

CONCLUSION

Jones is entitled to a new trial because he was denied his due process right to an impartial judge.

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Respectfully submitted,

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