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IN THE SUPREME COURT OF IOWA
Supreme Court No. 22-1188
Wright County No. FECR036219

STATE OF IOWA,
Plaintiff–Appellee,

vs.

LUKOUXS ALAN BROWN,
Defendant–Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR WRIGHT COUNTY
THE HONORABLE GREGG R. ROSENBLADT, JUDGE

APPLICATION FOR FURTHER REVIEW

(Iowa Court of Appeals Decision: March 27, 2024)

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QUESTION PRESENTED FOR FURTHER REVIEW

Appellate courts in almost every jurisdiction review rulings on competency for correction of errors at law and substantial evidence. Iowa is an outlier. *State v. Lyman* mandates *de novo* review, with no deference to the district court's findings on the defendant's competency to stand trial.

Should this court overrule *State v. Lyman*?

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STATEMENT SUPPORTING FURTHER REVIEW

On March 27, 2024, the Iowa Court of Appeals reversed and remanded the district court's factual finding that Lukouxs Brown was competent to stand trial. *See State v. Brown*, No. 22-1188, 2024 WL 1296251 (Iowa Ct. App. Mar. 27, 2024). In briefing, the State urged the appellate courts to overturn *State v. Lyman*, 776 N.W.2d 865, 873 (Iowa 2010), which held that appellate courts must "review a trial court's decision as to a defendant's competency to stand trial de novo" because rulings on the issue implicate a constitutional right. State's Br. 12–16. But the Court of Appeals was bound by *Lyman*, so it applied de novo review. That meant reweighing evidence from a cold record. Upon doing so, the court of appeals substituted its own findings: it found Brown restorable, but not yet competent to stand trial. *Brown*, 2024 WL 1296251, at *9. As one judge noted in a special concurrence, the standard of review was determinative—the outcome would have been different if the panel had reviewed for correction of errors at law and deferred to the credibility findings of the district court. *Id.*

This outcome illustrates why *Lyman* is wrongly decided. Unlike other factual findings and expert battles, where appellate courts explicitly respect the vantage point of the fact finder to make credibility findings,

Lyman forbids appellate courts from doing so. For the reasons explained below, this is an outlier not only in the country, but also in Iowa's jurisprudential landscape. Because this court is the only one that can remedy the issue, further review is necessary.

STATEMENT OF THE CASE

Nature of the Case

Brown was charged with first-degree murder after slitting his coworker's throat. Brown appealed after the district court found him competent to stand trial. The Court of Appeals reversed, finding Brown restorable but not yet competent. The State seeks further review.

Statement of Facts

On February 16, 2021, Wayne Smith's co-workers at the Prestage pork processing facility near Eagle Grove found him bleeding from the neck on the floor of the locker room. D0011, Minutes of Testimony at 2–3 (02/25/2021). As Smith bled to death on the locker-room floor, Brown admitted to another co-worker that he had attacked Smith. D0011 at 2–3. Surveillance video showed Brown had approached Smith from behind and slashed his throat. D0011 at 4.

Police found Brown with blood on his hands. D0011 at 1. When interviewed, Brown admitted cutting Smith's neck with a knife. D0011 at 1. He explained that he did not like Smith and had purchased the knife at Walmart a day or two earlier to kill him. D0011 at 1.

Within a week of the criminal complaint, Brown challenged his competence to stand trial. D0009, Motion for Hearing at 1 (02/24/2021). Following a hearing, the district court ordered a competency evaluation.

D0018, Order for Comp. Eval. at 1–2 (03/08/2021). The district court found Brown incompetent after receiving the report and ordered he undergo restoration treatment. D0024, Order for Restoration of Comp. at 1–2 (04/16/2021). After only eight of the allowable eighteen months of treatment, Brown's treating provider (Dr. Arnold Anderson) found Brown unrestorable. D0040, Court Ordered Eval. at 1 (02/01/2022); Iowa Code § 812.9(1).

Recognizing that a hearing pursuant to section 812.8(4) would be held within fourteen days, the State moved for additional time to obtain a second expert opinion. D0043, Motion for Additional Time at 1–2 (02/03/2022). The district court held a hearing, then granted that motion. The State's expert (Dr. Rosanna Jones-Thurman) found Brown competent to stand trial. D0046, Other Order at 1 (02/11/2022); D0062, Exh. 1 at 17 (06/17/2022). After reviewing both experts' opinions and hearing their testimony, the district court explained why it found Dr. Jones-Thurman was more credible and why it believed her when she concluded that Brown was competent to stand trial. D0068, Order for Arraignment at 4–17 (06/17/2022). Based on that, it reinstated the criminal proceedings. D0068 at 18. Brown applied for interlocutory appeal, which the Supreme Court granted. D0075, Application for Interlocutory Appeal at 56

(07/15/2022); D0078, Supreme Court Order at 1 (08/16/2022). The Supreme Court routed the case to the court of appeals. Transferred to COA (12/28/2023).

A panel of the Court of Appeals recognized it was bound by *Lyman* and decided the case under a de novo standard of review. *Brown*, 2024 WL 1296251, at *1 n.1. The court compared and re-weighed the expert testimony with the benefit of only the cold record, not the expert's demeanor, inflection, tone, or behavior. From this, the court landed on a conclusion separate from what either expert or the district court came to—that Brown was not yet competent, but restorable. *Id.* at *8–9. In a special concurrence, one panelist noted serious concern with *Lyman* and its directive for appellate courts and stated that "if the standard of review required deference—rather than compelling me to independently re-weigh the evidence with a cold record—I would have affirmed." In other words, the standard of review determined this case.

ARGUMENT

I. The Supreme Court should overrule *State v. Lyman* and apply a correction-of-errors, substantial-evidence review of the district court's finding of competency.

Prior to 2010, this Court tailored its review of competency rulings based on whether the appeal concerned a question of law or a question of fact. *Lyman*, 776 N.W.2d at 871–73. Review was de novo if the defendant challenged the district court's determination that no competency hearing was necessary. If the district court held a hearing and made a ruling that included findings as to the defendant's competency to stand trial, review of that ruling and its findings was for substantial evidence. *State v. Jackson*, 305 N.W.2d 420, 425 (Iowa 1981).

Lyman changed that. It overruled decades of caselaw by requiring de novo review for all rulings on competency. It said that it did so because the "appeal involve[d] a defendant's constitutional rights." *Lyman*, 776 N.W.2d at 873. But that cannot trigger de novo review. If it were, the same logic would require de novo review for almost every type of challenge in criminal cases.

The constitutional underpinnings of competency are the right to due process and to a fair trial. *State v. Edwards*, 507 N.W.2d 393, 395 (Iowa 1993). But this procedural requirement does not transform everything in

its periphery into a constitutional question. *Cf. Watts v. State*, 257 N.W.2d 70, 71 (Iowa 1977) ("When, as in this case, however, issues as to the violation of constitutional safeguards are raised, we are obliged to make an independent evaluation of the totality of the circumstances shown by the entire record under which rulings on such constitutional rights were made."). Rather, the constitutional question is whether the defendant was afforded proper process to determine competency. It makes sense that this legal question—whether the district court ought to have held a competency hearing—would undergo de novo review. *See State v. Einfeldt*, 914 N.W.2d 773, 780 (Iowa 2018) (recognizing that whether a competency hearing should be held is a question of law not subject to a trial court's discretion and utilizing de novo review); *State v. Bellardino*, 841 S.E.2d 621, 624 (S.C. 2020) (recognizing it is the "competency determination [] required by due process when the trial court suspects the defendant lacks competence"); *State v. Mitchell*, 539 P.3d 218, 223 (Kan. 2023) ("Here, the district court both ordered a competency evaluation and held a hearing after receiving the report from Crosswinds. The district court admitted the report into evidence without objection and offered both parties the opportunity to present additional evidence. Neither party did so. In short, the district court followed the proper procedure.").

But if the defendant challenges the factual findings of the district court—not the legal adequacy of the process to determine competency—that challenge implicates a fact question, not a pure question of law. Until *Lyman*, Iowa courts recognized that distinction. *State v. Reiflin*, 558 N.W.2d 149, 151–52 (Iowa 1996) ("Our scope of review is for the correction of errors at law. We are bound by the district court's findings of fact if they are supported by substantial evidence. We do not review the evidence de novo where a determination of competency has been made by the district court." (internal citations omitted)). Now, Iowa is one of the few states that refuses to recognize this bifurcation. *See State v. O'Neill*, 945 N.W.2d 71, 82 (Minn. Ct. App. 2020) (explaining that "most state jurisdictions . . . apply clear-error review or its functional equivalent to a district court's competency finding").

In other contexts, Iowa courts appreciate that a ruling may implicate a constitutional right without triggering de novo review. As this Court recognized in *State v. Crawford*, 972 N.W.2d 189, 195–96 (Iowa 2022) (citing *State v. Burns*, 165 N.W.2d 346, 347 (Iowa 1917)), a sufficiency-of-the-evidence challenge implicates a defendant's constitutional right to a fair trial. Nevertheless, appellate courts review these claims for correction of errors at law. *Id.* at 202. Similarly, though "[t]he Sixth and Fourteenth

Amendments to the United States Constitution and article I, sections 9 and 10 of the Iowa Constitution guarantee a criminal defendant the right to a fair trial before an impartial jury" which "may be impaired by jury misconduct and jury bias," *State v. Christensen*, 929 N.W.2d 646, 661 (Iowa 2019), "[w]e review a denial of a motion for a new trial based upon juror misconduct or juror bias for an abuse of discretion," *State v. Webster*, 865 N.W.2d 223, 231 (Iowa 2015). When a defendant alleges prosecutorial misconduct, which implicates "[a] defendant's constitutional right to a fair trial," appellate courts review such claims for an abuse of discretion. *State v. Plain*, 898 N.W.2d 801, 810–11, 818–19 (Iowa 2017); *see also State v. Coleman*, 907 N.W.2d 124, 134, 138–39 (Iowa 2018) (recognizing both that prosecutorial misconduct can violate due process and that an appellate court's review of rulings on such claims is for an abuse of discretion). And, of course, every defendant has a constitutional right to effective counsel. But in appeals involving requests for substitute counsel, review is de novo only if the claim is that the district court did not address the request or conduct an adequate inquiry. Review is for an abuse of discretion when the claim is that the district court erred in deciding not to appoint substitute counsel. *See State v. Tejeda*, 677 N.W.2d 744, 751 (Iowa 2004) (citing *State v. Lopez*, 633 N.W.2d 774, 781 (Iowa 2001)). The common thread that runs

through each of these examples is this: Iowa courts recognize that questions about the constitutional adequacy of procedural safeguards are pure legal questions that implicate de novo review, while a more deferential standard of review is appropriate for the district court's ultimate findings of fact, made after proceedings where those constitutional safeguards were honored.

After all, only the district court can experience the testimony live and lay eyes on the defendant. *See State v. Frake*, 450 N.W.2d 817, 819 (Iowa 1990) (recognizing that a witness's appearance and conduct are considerations for credibility). That means it is in a better position to make factual determinations than an appellate court that only has a cold record, often months after the fact. *See Claus v. Whyle*, 526 N.W.2d 519, 524 (Iowa 1994) ("Factual disputes depending heavily on credibility of witnesses are best resolved by the trial court, which has a better opportunity to evaluate credibility than do we."). In theory, this deference to a district court's factual findings should exist even in a de novo standard of review. *State v. Baker*, 925 N.W.2d 602, 609 (Iowa 2019). But any standard of review that commands appellate courts to find their own facts will lead them to disregard existing credibility findings wherever they conflict with facts as

they appear to the appellate court on its review of the cold record—which is just what happened here.

At base, de novo review of a factual competency determination made after a constitutionally adequate hearing steps around the district court's fact finding and ignores the benefit of its unique vantage point. This case involves a battle of the experts—precisely the type of case where credibility findings are essential, and where appellate courts typically defer to the district court's findings on which expert was more credible and which conclusion was more believable. *See State v. Jacobs*, 607 N.W.2d 679, 685 (Iowa 2000) ("When a case evolves into a battle of experts, we, as the reviewing court, readily defer to the district court's judgment as the district court is in a better position to weigh the credibility of the witnesses."); *State v. Venzke*, 576 N.W.2d 382, 384 (Iowa Ct. App. 1997) (same). The standard of review for rulings on competency should reflect this—review should be for substantial evidence.

In *State v. O'Neill*, the Minnesota Court of Appeals described how twenty-nine states and eleven federal circuit courts approach the issue, none of which require de novo review. 945 N.W.2d at 80–82 (collecting cases). It also recognized:

> Although it is not compelling on its own, we find additional support for our conclusion in the nature of

> the disputed issue and the manner in which appellate review usually addresses issues of a similar nature. Again, whether a defendant is legally competent to stand trial is a question of fact that must be proved by a preponderance of the evidence and found by the district court. *See* Minn. R. Crim. P. 20.01, subds. 5(c), 6(a)–(b) (characterizing the district court's determination as a finding). We routinely review a district court's resolution of a factual issue only for clear error.

Id. at 80.

The United States Supreme Court, in the habeas realm, has classified a defendant's competency to stand trial as a factual issue and so reviews for clear error,[1] stating:

> While these issues encompass more than "basic, primary, or historical facts," their resolution depends heavily on the trial court's appraisal of witness credibility and demeanor. This Court has reasoned that a trial court is better positioned to make decisions of this genre, and has therefore accorded the judgment of the jurist-observer "presumptive weight."

Thompson v. Koehane, 116 S.Ct. 457, 459 (1995).

[1] 28 U.S.C. § 2554(e)(1) states "In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence."

In California, when a juvenile asked the supreme court to review juvenile competency determinations de novo, the court noted the juvenile court's determination "even if made in the absence of an evidentiary hearing, may be informed by the court's own observations of the minor's conduct in the courtroom generally, a vantage point deserving of deference on appeal." *In re R.V.*, 349 P.3d 68, 80 (Cal. 2015). It explained such determinations are specific to the individual, gave particular credit to the trial court's appraisal, and declined to adopt a de novo standard of review despite the constitutional implications. *Id.*

The jurisprudence of our own courts and others provides clear evidence that *Lyman* is "erroneous and leads to undesirable results." *Youngblut v. Youngblut*, 945 N.W.2d 25, 39 (Iowa 2020). The correct alternative is reviewing for substantial evidence, the standard we would employ if de novo review were not erroneously overlaid on the issue. Iowa R. App. P. 6.904(3)(a) ("Findings of fact in a law action are binding upon the appellate court if supported by substantial evidence."); *Jacobs*, 607 N.W.2d at 685.

Substantial evidence supports the district court's finding that Brown is competent to stand trial. Dr. Jones-Thurman found Brown not only restorable but competent under both the standards laid out in *Dusky v.*

U.S., 362 U.S. 402, 402 (1960) and Iowa Code chapter 812. D0062, Exh. 1 at 16 (06/17/2022). Brown lost the battle of the experts; the district court heard and weighed evidence from the competing experts and found Dr. Jones-Thurman's findings and opinions were more credible than Dr. Anderson. D0068 at 17. If not for *Lyman*—if proper deference had been afforded to the district court's findings—the result would have been different. *Brown*, 2024 WL 1296251, at *9. This Court should overrule *Lyman*, correct the standard of review, and affirm the district court's findings that Brown has been restored to competency to stand trial.

CONCLUSION

The State respectfully requests this Court grant further review, overrule *Lyman*, vacate the panel opinion, and affirm the district court's competency finding.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(g) and 6.903(1)(i)(1) or (2) because:

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