

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A19-0803**

State of Minnesota,  
Respondent,

vs.

Jude Thomas Mary O'Neill,  
Appellant.

**Filed May 26, 2020  
Affirmed  
Ross, Judge**

Hennepin County District Court  
File No. 27-CR-18-4884

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

Michael O. Freeman, Hennepin County Attorney, Jonathan P. Schmidt, Assistant County Attorney, Rebecca Barberio (certified student attorney), Minneapolis, Minnesota (for respondent)

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Considered and decided by Cochran, Presiding Judge; Segal, Chief Judge; Ross, Judge.

**S Y L L A B U S**

The supreme court's directive to review a district court's finding that a defendant is competent to stand trial to "determine if the district court gave proper weight to the evidence produced and if its finding of competency is adequately supported by the record" requires us to defer to a district court's factual findings unless they are clearly erroneous.

## OPINION

**ROSS**, Judge

The state charged Jude O'Neill with fleeing a peace officer in a motor vehicle, and the district court conducted a contested competency hearing. Three mental-health experts agreed that O'Neill suffers from a cognitive impairment but disagreed as to its effect on his competency. The district court relied on the court-appointed evaluator's reports and testimony, found O'Neill competent to stand trial, and found him guilty after a bench trial. O'Neill challenges the competency finding on appeal, arguing that the district court erred by choosing one expert's opinion over the two other experts' opinions. Because the standard of review directs us to afford deference to the district court's factually supported findings, and because the district court made its competency determination while acting within its discretion, we affirm.

## FACTS

The state charged Jude O'Neill with one felony count of fleeing a peace officer in a motor vehicle for an incident in February 2018. The district court ordered a psychological evaluation under Minnesota Rule of Criminal Procedure 20.01 to determine O'Neill's competency to stand trial. Clinical forensic psychologist Dr. Jill Rogstad concluded that O'Neill was competent. O'Neill requested and received a contested hearing under Minnesota Rule of Criminal Procedure 20.01, subdivision 5(a)(1), during which the district court received previously created psychological reports about O'Neill and heard expert testimony, which we now summarize.

### ***Prior Evaluations***

Clinical neuropsychologist Dr. Ronald Federici evaluated O’Neill in September 2009 when O’Neill was 12 years old. At that time, Dr. Federici concluded that O’Neill exhibited global developmental delays because of an alcohol- or drug-related birth-defect syndrome; cognitive impairment affecting his speech, comprehension, and expressive skills; a learning disability; and attention and concentration deficits. Six years later, after the state charged O’Neill with a motor-vehicle theft in 2015 unrelated to this appeal, Dr. Federici wrote to the district court opining that O’Neill’s impairment impacted his “thinking, reasoning, attention, organization[, and] thought[-]process patterns.” The doctor believed that O’Neill did “*not* understand any aspect of the court proceedings even though he may ‘present’ that he is competent or understands” and that he should be civilly committed.

Dr. Jill Rogstad also evaluated O’Neill and reported her opinion in connection with the 2015 motor-vehicle theft. She opined that O’Neill could correctly identify various court-related roles and that he also generally understood legal concepts and court processes. She believed that O’Neill could evaluate legal options reasonably. Dr. Rogstad concluded that O’Neill was competent to stand trial in that case because O’Neill showed that he could meaningfully confer with defense counsel, understood his attorney’s advocacy role, and showed his willingness to help prepare his defense.

Doctors Federici and Rogstad evaluated O’Neill again in 2016. Dr. Federici noted consistent developmental delays and doubted that O’Neill could think or reason at a high level. He opined that O’Neill was therefore “‘not competent’ per the neuropsychological

standards as opposed to the legal-court standards.” By contrast, Dr. Rogstad again believed that O’Neill was competent, observing that he factually and rationally understood courtroom principles, criminal proceedings, witness roles, privileged communications, and the allegations against him.

In July 2017, forensic psychologist Dr. Paul Reitman evaluated O’Neill in proceedings otherwise unrelated to this appeal. He believed that O’Neill could understand core legal concepts but was unable to engage in higher-level reasoning or grasp more complex legal concepts. Dr. Reitman opined that O’Neill was not competent to participate in his own defense. Dr. Reitman reiterated that opinion in October 2017, but he did recognize the possibility that O’Neill might regain competency. He noted that O’Neill expressed to his therapist that he worried “that if he is found competent to stand trial that he is going to go to prison.” In a March 2018 report, Dr. Reitman observed that O’Neill had “emerging concrete understanding of the legal concepts” but still could not understand court proceedings.

### ***Final Report and Testimony***

In the proceedings underlying this appeal, Dr. Rogstad evaluated O’Neill again and reported her findings in April 2018. She found that O’Neill was presenting himself in a “markedly discrepant” fashion from her previous encounters with him. This time, O’Neill claimed to be unable to recall details of his offense and said he had probably injured his head since Dr. Rogstad last examined him. And he could no longer define the role of the jury. She found that O’Neill was not fully cooperating, observing that he frequently claimed either that he did not know or could not remember information. But Dr. Rogstad

found that he asked “relevant and thoughtful questions that conveyed his retention, application, and use of the material in question,” demonstrating that he could learn.

Suspicious about O’Neill’s inconsistent presentation from her previous encounters with him, Dr. Rogstad administered three tests to gauge O’Neill’s testing “response style.” O’Neill’s performance on the first test raised Dr. Rogstad’s “concerns about a feigned . . . or irrelevant . . . response style.” O’Neill tested below benchmarks on two of three trials in the second test, leading Dr. Rogstad to believe that O’Neill was feigning incompetence because “even persons with genuine brain injuries and other neuropsychological deficits can perform adequately.” O’Neill’s responses on the third test led Dr. Rogstad to believe that he was deliberately suppressing correct answers or picking answers randomly. She found that the tests showed inconsistent effort and a deliberate attempt to fake an impairment. Dr. Rogstad did not believe that any intervening event caused the change in O’Neill’s presentation, finding that his behavior was “more consistent with a willful lack of cooperation and feigned deficiencies.” She reasoned that O’Neill’s refusal to answer direct questions despite his ability to convey the same information later also showed his malingering.

Dr. Rogstad concluded that O’Neill could communicate and express his ideas clearly; could understand, appreciate, apply, and use legal concepts in a rational, self-serving manner; could understand his charges, consequences of legal alternatives, and adjudicative process; and “could engage in a logical decision-making process when discussing his specific legal situations and hypothetical scenarios.” Dr. Rogstad opined that O’Neill was competent for trial.

Dr. Federici disagreed. He believed O'Neill could not exercise common sense, rational judgment, or problem solving. Comparing his 2009 and 2016 evaluations, Dr. Federici opined that O'Neill's condition was deteriorating and would continue to deteriorate. He believed that O'Neill could answer questions but lacked real understanding. O'Neill's memory-test results were so low that Dr. Federici believed that O'Neill's ability to learn new material "just doesn't exist for him." Dr. Federici clarified that his incompetency opinion was based on "a neuropsychological and a medical perspective [of] competency of brain damage," and he acknowledged that he was not familiar with the legal meaning of competency.

Dr. Reitman also believed that O'Neill was incompetent. He testified that O'Neill's significant neuropsychological conditions produced "profound impairments in the higher executive cognitive functions." He surmised that O'Neill could learn only through repetition and could not solve new problems. Dr. Reitman believed that O'Neill understood general court roles but "lack[ed] the ability to engage in comprehension of higher level cognitive functioning" and "the ability to engage in more than one step [of] inductive [or] deductive reasoning." Dr. Reitman disagreed with Dr. Rogstad's opinion that O'Neill was malingering and advocated for sending O'Neill to a program to determine whether he could be restored to competency.

### ***District Court's Competency Finding***

The district court found that O'Neill is cognitively impaired by fetal exposure to drugs or alcohol. It declined to rely on Dr. Federici's incompetency determination because Dr. Federici was not a forensic psychologist and his evaluation and conclusion did not

focus on legal competency. It also rejected Dr. Reitman's opinion, reasoning that Dr. Reitman relied heavily on collateral sources and failed to adequately demonstrate how specific data points factored into his opinion. The district court also observed that Dr. Reitman was inconsistent in his evaluations, once concluding that O'Neill could not be restored to competency and three months later concluding that his competency could be restored.

The district court was most convinced by Dr. Rogstad's opinion because she had performed three forensic evaluations, thoroughly explained her reasoning, and focused her evaluations on O'Neill's ability to rationally consult with his attorney, comprehend court proceedings, and participate in his defense. It was particularly persuaded by the test results indicating that O'Neill was feigning incompetency by suppressing correct answers. It found the circumstances of Dr. Rogstad's 2015 and 2016 evaluations particularly compelling because O'Neill had previously demonstrated that he significantly understood his court proceedings despite his cognitive impairment. The district court also observed that Dr. Reitman's report provided evidence supporting Dr. Rogstad's conclusion because one of Dr. Reitman's collateral contacts had reported that O'Neill was worried that a finding that he was competent would likely result in his being sentenced to prison. The district court ultimately concluded that the state had met its burden, and it found O'Neill competent to stand trial.

### ***Trial, Verdict, Sentence, and Appeal***

The district court found O'Neill guilty at a bench trial, sentenced him to serve 15 months in prison, and stayed execution of the sentence for three years conditioned on

probationary terms. O’Neill appeals from his conviction, challenging only the district court’s pretrial competency determination.

## **ISSUES**

I. What deference do we give the district court’s findings as we review whether it gave proper weight to the evidence and whether its finding of competency is adequately supported by the record?

II. Did the district court give proper weight to the evidence and render a competency finding that is adequately supported by the record?

## **ANALYSIS**

O’Neill challenges the district court’s determination that he was competent to stand trial, arguing that the district court failed to give proper weight to the evidence and that its determination lacks adequate record support. Because the parties dispute how we ought to review the district court’s competency finding, we first clarify the scope and standard of our review. And because we conclude that the district court’s finding is proper and adequately supported, we affirm the district court’s competency decision and, consequently, O’Neill’s conviction.

### **I**

At its core, this case concerns O’Neill’s constitutional rights. Criminal defendants have the constitutional right not to be deprived by the state of liberty or property without due process of law. U.S. Const. amend. XIV. A state’s failure to follow procedures sufficient to protect a defendant’s right not to be tried while he is incompetent to stand trial deprives him of his right to due process. *Pate v. Robinson*, 383 U.S. 375, 378, 86 S. Ct. 836, 838 (1966); *State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018). Minnesota’s



competency proceedings begin when either a party or the district court questions the defendant's competency, triggering the district court's duty to determine whether reason exists to doubt the defendant's competency. Minn. R. Crim. P. 20.01, subd. 3. If reason exists, the district court must suspend the proceedings and, in the case of a felony, order an examination of the defendant's mental condition. *Id.*, subds. 3(b), 4(a). If any party objects to the examiner's report, the district court must hold a hearing to decide whether the defendant is competent based on the greater weight of the evidence. *Id.*, subds. 4(b), 5(a), (c). "If the court finds the defendant competent, the criminal proceedings must resume." *Id.*, subd. 6(a). How an appellate court reviews that finding is the central issue in this case.

The state supreme court has characterized the standard of appellate review of the district court's competency finding this way, rephrasing a characterization it made ten years earlier:

We independently review the record to determine if the district court gave "proper weight" to the evidence produced and if "its finding of competency is adequately supported by the record."

*State v. Ganpat*, 732 N.W.2d 232, 238 (Minn. 2007) (quoting *State v. Mills*, 562 N.W.2d 276, 283 (Minn. 1997)). The parties disagree sharply as to how this standard applies. O'Neill asserts that we afford "[n]o deference" to the district court's findings, akin to de novo review. At oral argument, the state likened the standard to clear-error review. We must interpret this supreme court caselaw, a task we undertake de novo. *See State v. Robideau*, 796 N.W.2d 147, 150 (Minn. 2011). For the following reasons, we conclude that the *Ganpat* standard requires us to accept the district court's factual findings after a hearing, unless they are clearly erroneous.

***The Ganpat standard recognizes a bifurcated analysis first of whether the facts required the district court to inquire further into a defendant’s competency and second whether the inquiry uncovered facts sufficient to support the district court’s findings.***

A careful consideration of *Ganpat* and related caselaw informs us that the *Ganpat* standard recognizes a bifurcated analysis first of whether the facts required the district court to inquire further into a defendant’s competency and second whether the inquiry uncovered facts sufficient to support the district court’s findings. We arrive at this conclusion by observing that the *Ganpat* standard identifies two distinct issues: whether “the district court gave proper weight to the evidence produced *and* [whether] its finding of competency is adequately supported by the record.” 732 N.W.2d at 238 (emphasis added) (quotation omitted). The second issue—the adequacy of record support—highlights a clear-error review. *See, e.g., State v. Barshaw*, 879 N.W.2d 356, 366 (Minn. 2016) (“A finding of fact is not clearly erroneous if it is reasonably supported by the evidence as a whole.”); *State v. Vang*, 847 N.W.2d 248, 266 (Minn. 2014) (“[W]e review a postconviction court’s factual determinations under a clearly erroneous standard, and do not reverse those determinations unless they are not factually supported by the record.”); *State v. Jenkins*, 782 N.W.2d 211, 223 (Minn. 2010) (holding that the district court’s pretrial findings were “supported by the record and are not clear error”). We easily conclude that the *Ganpat* standard of review, at least as to one of its components, is a clear-error standard.

The meaning of “proper weight to the evidence” is less clear. The *Ganpat* court did not explain how to apply the “proper weight” inquiry to a post-hearing competency finding or demonstrate how the inquiry occurs. Tracing *Ganpat*’s dual-inquiry language to its first use adds little clarity. *Ganpat*, decided in 2007, addressed a defendant’s challenge to a

post-hearing determination and expressed for the first time this full formulation of the proper-weight-*and*-adequate-support standard. 732 N.W.2d at 238. The *Ganpat* court articulated the standard citing the 1997 opinion of *State v. Mills*, where the supreme court reviewed a district court’s final competency finding without expressly stating any standard of review. 562 N.W.2d at 281. But in affirming the district court, the supreme court concluded “that the trial court gave *proper weight* to the evidence relating to competence and that its finding of competency is adequately supported by the record.” *Id.* at 283 (emphasis added). The *Mills* court did not say what it meant by “gave proper weight.”

O’Neill cites *State v. Bauer*, 245 N.W.2d 848, 855 (Minn. 1976), for his proposition that we must afford “[n]o deference . . . to the district court’s findings on the [competency] matter.” We think O’Neill misapplies *Bauer* because that case addressed a separate issue, but it is clear that the distinction is helpful in demonstrating why the *Ganpat* standard does not promote de novo review of the district court’s factual findings. The rules mark a legally significant difference between a district court on the one hand deciding whether to inquire further into a defendant’s competency, *see* Minn. R. Crim. P. 20.01, subd. 3, and on the other making a final competency determination, *see id.*, subd. 5(c). The *Bauer* court recognized this key distinction. It explained that the first issue focuses on the “narrow” question of whether the district court should inquire further into a defendant’s competency, an issue which “is *not* whether the defendant [is] competent to stand trial.” *Bauer*, 245 N.W.2d at 852 (emphasis added). *Bauer* addressed only the former issue of the district court’s duty to inquire further, *see id.*, while O’Neill’s appeal raises only the latter, ultimate issue of whether, after that inquiry, the facts establish that the defendant is competent.

A deeper look at caselaw informs us that the “proper weight” issue originated in the context of a district court’s decision *not* to initiate competency proceedings. In *Drope v. Missouri*, the United States Supreme Court addressed whether a district court’s failure to inquire further into a defendant’s competency on undisputed facts offended his due-process right to a fair trial. 420 U.S. 162, 174–75, 95 S. Ct. 896, 905 (1975). When the defendant had attempted suicide midtrial and the district court was aware of his strange behaviors and relevant psychiatric opinions suggesting his need for treatment, the *Drope* Court concluded that “the record reveal[ed the district court’s] failure to *give proper weight* to the information suggesting incompetence which came to light during trial.” *Id.* at 164–66, 169, 179, 95 S. Ct. at 900–02, 907 (emphasis added). The Minnesota Supreme Court adopted *Drope*’s “proper weight” standard in *Bauer*, addressing the district court’s denial of defense counsel’s midtrial motion for a competency examination. 245 N.W.2d at 852–53, 856. Defense counsel in *Bauer* had informed the district court of the defendant’s paranoia and delusional thinking. *Id.* at 852. Likening *Bauer*’s circumstances to those of the defendant in *Drope*, the *Bauer* court reasoned,

Here, too, there *is no dispute as to the evidence possibly relevant to defendant’s mental condition* that was before the [district] court. We therefore review the record to determine *whether* [the district court] *gave proper weight to the information* suggesting incompetence in concluding that there was not sufficient doubt of the defendant’s fitness to stand trial *so as to require further inquiry*.

*Id.* at 856 (emphasis added) (quotation omitted). Here we see the “proper weight” reference in its precise setting, which reveals that the *Ganpat* “proper weight” reference was shorthand for assessing whether the facts require the district court to inquire further into a

defendant's competency. And the Minnesota Supreme Court has continued applying *Bauer's* "proper weight" standard of review in other appeals when a defendant challenges the district court's failure to inquire further. *See, e.g., Bonga v. State*, 797 N.W.2d 712, 720 (Minn. 2011).

*Drope* and *Bauer* also explain *why* we afford no deference when reviewing a district court's further-inquiry decision. The *Drope* Court explained that the case turned on "the inferences that were to be drawn from the *undisputed* evidence" and whether "the failure to make *further inquiry* into [Drope's] competence to stand trial[] denied him a fair trial." 420 U.S. at 174–75, 95 S. Ct. at 905 (emphasis added). The *Bauer* court likewise recognized that the facts presented an issue "cast in the form of a factual determination," but it explained that it would not accord "the usual deference given to a [district] court's findings" because the question focused on inferences to be drawn from *undisputed* evidence. 245 N.W.2d at 855–56. A district court's competency finding after a contested competency evidentiary hearing presents a situation entirely unlike a district court's preliminary determination of whether, as a matter of law and based on undisputed facts, further inquiry into a defendant's competency is warranted. The district court's decision is not merely "cast *in the form of* a factual determination," *id.* at 855 (emphasis added), because the court is tasked with actually making factual findings on contested evidence. We therefore reject O'Neill's assertion that *Bauer's* no-deference analysis extends to both components of the *Ganpat* standard, properly construed.

***The Minnesota Supreme Court has applied a clear-error review standard to a district court's post-inquiry competency findings.***

The conclusions we have drawn from tracing the origins of the “proper weight” language are amply supported by the supreme court’s demonstrated review in competency appeals. Those cases corroborate our understanding that we should review a district court’s factual findings for clear error; that is what the supreme court has done, both explicitly and implicitly. In *Shoen v. State*, for example, the supreme court affirmed the district court’s postconviction finding that a defendant was competent, explaining “that the findings made by the postconviction court relating to Shoen’s competency to stand trial are not clearly erroneous, and we therefore defer to those findings.” 648 N.W.2d 228, 230–31 (Minn. 2002). Unlike the de novo issue presented in *Drope* and *Bauer*, the challenged decision in *Shoen* came after an evidentiary hearing where Shoen bore the burden of proof. *Id.* at 230. Inasmuch as the supreme court was tasked with reviewing the district court’s findings related to competency rather than the district court’s decision whether to inquire further about competency, the court applied the clear-error standard. We recognize that a postconviction court’s findings are generally subject to clear-error review. *See Carridine v. State*, 867 N.W.2d 488, 496 (Minn. 2015). But if a competency finding on contested evidence were truly subject instead to de novo review, the *Shoen* court would not have deferred to the postconviction court’s findings.

It is clear that the *Ganpat* court was mindful of *Shoen*, citing it once to define incompetency and again when it rejected Ganpat’s reliance on the case for a legal proposition not relevant here. 732 N.W.2d at 238. In a footnote, the *Ganpat* court explicitly

acknowledged its earlier conclusion that the district court in *Shoen*'s case made findings relating to competency which "were not clearly erroneous." *Id.* at 238 n.3. Had the *Ganpat* court discerned any friction between its stated standard of review and *Shoen*'s clear-error standard, or if it intended to chart a different course, it would have done so expressly. It did not.

We acknowledge that the *Ganpat* standard is restated in *Curtis*, 921 N.W.2d at 346, and that *Mills*'s holding referred to both proper weight and adequate support, 562 N.W.2d at 283. But a holding derives primarily from what an appellate court does, not from its abbreviated characterization about what it is doing. And as to what the supreme court was doing, in none of these cases did it ever refuse to afford deference to the district court's factual findings after a hearing on disputed evidence. *Curtis* dealt with the issue of the improper assignment of the burden, and indeed, as the court remanded, it explained that "the district court is in the best position to apply the correct burden of proof to the evidence in the record." 921 N.W.2d at 346, 349. If the *Ganpat* standard mandated de novo review of facts, then the supreme court would not have remanded for the district court to weigh the evidence.

And although *Ganpat* dealt directly with a district court's competency finding, the supreme court's review appeared to focus exclusively on the adequacy of record support rather than its reweighing of evidence to determine whether the district court gave it the "proper weight." The *Ganpat* court observed that "[t]he district court's findings were supported by the opinions" of two doctors and that the expert opinion most favorable to *Ganpat* was equivocal. 732 N.W.2d at 238. Absent from the court's analysis is any

indication of whether the evidence was “properly” weighed, despite the court’s conclusion that the district court “gave proper weight to the evidence produced and correctly found that Ganpat was competent to stand trial.” The *Ganpat* court’s analysis seems most fairly described as a clear-error review.

*Mills* likewise does not involve the supreme court’s reweighing of the evidence but instead shows that it was reviewing the adequacy of the record supporting the district court’s competency finding. The *Mills* court recounted how the trial record indicated Mills’s ability to cooperate effectively, behave appropriately, make key decisions, and work with her counsel. 562 N.W.2d at 283. This recounting reflects the supreme court’s effort to identify evidence that supports the district court’s findings, not its effort to undertake its own, de novo fact-finding.

In sum, caselaw informs us that the *Ganpat* standard neither has been nor should be employed in a fashion that invites an appellate court to substitute its judgment for the district court’s on factual findings derived from disputed competency-hearing evidence.

***Legal competency is a factual determination and whether it is supported by the record calls for clear-error appellate review.***

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. *See, e.g., State v. Diede*, 795 N.W.2d 836, 843 (Minn. 2011) (recognizing that factual findings regarding motion to suppress are reviewed for clear error); *State v. Chavarria-Cruz*, 784 N.W.2d 355, 363 (Minn. 2010) (same). And more specifically, although "competency" falls under a variety of definitions depending on context, appellate courts have historically reviewed competency findings in other contexts for clear error. *See, e.g., In re Palmer's Estate*, 57 N.W.2d 409, 411 (Minn. 1953) (applying clear-error review and affirming district court's determination that the testator was incompetent to make a will); *Younggren v. Younggren*, 556 N.W.2d 228, 232–33 (Minn. App. 1996) (applying clear-error review and affirming district court's determination of party's competency to sign deeds and execute a power of attorney). Because O'Neill's competency was a question of fact, and because in other matters involving competency findings we typically review only for clear error, applying the clear-error standard to the district court's challenged decision here reflects consistency in appellate review.

***The overwhelming majority of jurisdictions review final competency findings for clear error.***

In addition to maintaining consistency within Minnesota in the approach to competency findings in other areas of the law, applying a clear-error standard to the district court's findings of a criminal defendant's competency is consistent with federal and state courts nationwide. Federal jurisdictions uniformly review a district court's competency finding for clear error. *See United States v. Mahoney*, 717 F.3d 257, 265 (1st Cir. 2013); *United States v. Gigante*, 166 F.3d 75, 83–84 (2d Cir. 1999); *United States v. Green*,

544 F.2d 138, 145 (3d Cir. 1976); *United States v. Robinson*, 404 F.3d 850, 856 (4th Cir. 2005); *United States v. Porter*, 907 F.3d 374, 380 (5th Cir. 2018); *United States v. Branham*, 97 F.3d 835, 855 (6th Cir. 1996); *United States v. Bennett*, 908 F.2d 189, 195 (7th Cir. 1990); *United States v. Ghane*, 490 F.3d 1036, 1040 (8th Cir. 2007); *United States v. Frank*, 956 F.2d 872, 874 (9th Cir. 1991); *United States v. Pompey*, 264 F.3d 1176, 1178 (10th Cir. 2001); *United States v. Saingerard*, 621 F.3d 1341, 1343 (11th Cir. 2010).

Similarly, most state jurisdictions also apply clear-error review or its functional equivalent to a district court's competency finding. *See Eathorne v. State*, 448 So. 2d 445, 448–49 (Ala. Crim. App. 1984) (recognizing that competence is a finding of fact subject to review for clear error or abuse of discretion); *State v. Ferguson*, 547 P.2d 1085, 1086 (Ariz. Ct. App. 1976) (observing that determination of defendant's competency is subject to clear-error review); *Roberts v. State*, 488 S.W.3d 524, 528 (Ark. 2016) (same); *People v. Corichi*, 18 P.3d 807, 813 (Colo. App. 2000) (stating that competency is a question of fact and finding will not be reversed if it is adequately supported by the evidence); *Alston v. State*, 894 So. 2d 46, 54 (Fla. 2004) (holding that competency determinations are reviewed for an abuse of discretion but that the district court must resolve factual disputes and will not be reversed unless no reasonable person would take its position); *State v. Hawkins*, 363 P.3d 348, 353 (Idaho 2015) (“A district court's factual determination that a defendant is competent to stand trial will not be disturbed if it is supported by substantial, competent evidence.”); *People v. Bryant*, 54 N.E.3d 309, 318 (Ill. App. Ct. 2016) (recognizing that competency decision will not be reversed unless it is against the manifest weight of the evidence); *State v. Barnes*, 262 P.3d 297, 309 (Kan. 2011) (reviewing for

abuse of discretion, including the lack of substantial competent evidence supporting the competency finding); *Chapman v. Commonwealth*, 265 S.W.3d 156, 174 (Ky. 2007) (reviewing for clear error); *State v. Johnson*, 165 So. 3d 961, 966 (La. Ct. App. 2014) (reviewing for manifest error); *State v. Gerrier*, 197 A.3d 1083, 1088 (Me. 2018) (reviewing for clear error); *Peaks v. State*, 18 A.3d 917, 925 (Md. 2011) (same); *People v. Newton*, 446 N.W.2d 487, 488 (Mich. Ct. App. 1989) (reviewing for abuse of discretion); *Bridges v. State*, 807 So. 2d 1228, 1230 (Miss. 2002) (observing that competency finding may not be overturned unless it is “manifestly against the overwhelming weight of the evidence” (quotation omitted)); *State v. Lassek*, 723 N.W.2d 320, 324 (Neb. 2006) (noting that competency to stand trial is a question of fact which will not be reversed if there is sufficient evidence supporting factual findings); *Ogden v. State*, 615 P.2d 251, 252 (Nev. 1980) (observing that competency is a question of fact and findings will be sustained if there is substantial evidence supporting them); *State v. Decato*, 75 A.3d 1131, 1133 (N.H. 2013) (holding that district court’s competency determination will be reversed only if “no reasonable fact finder could have found as the trial court did” (quotation omitted)); *State v. Purnell*, 925 A.2d 71, 85 (N.J. Super. Ct. App. Div. 2007) (noting that district courts are afforded deference but competency findings cannot be upheld in the absence of “sufficient supporting evidence”); *State v. Nelson*, 634 P.2d 676, 679 (N.M. 1981) (determining that competency finding will be affirmed if it is supported by substantial evidence); *People v. Phillips*, 948 N.E.2d 428, 433 (N.Y. 2011) (providing that competency determinations receive substantial deference if supported by the record); *State v. Jackson*, 273 S.E.2d 666, 669 (N.C. 1981) (indicating that district court’s competency finding is conclusive on appeal

if supported by competent evidence); *State v. Heger*, 326 N.W.2d 855, 858 (N.D. 1982) (recognizing that competency to stand trial is a question of fact and district court’s finding will not be reversed unless it is clearly erroneous); *State v. Buxton*, 643 A.2d 172, 175 (R.I. 1994) (stating that district court’s competency finding will not be disturbed absent clear abuse of discretion); *Hall v. Catoe*, 601 S.E.2d 335, 338 (S.C. 2004) (reviewing findings for sufficient amount of supportive probative evidence); *State v. Leming*, 3 S.W.3d 7, 14 (Tenn. Crim. App. 1998) (“[T]rial court’s findings are conclusive unless the evidence preponderates otherwise.”); *State v. Lafferty*, 749 P.2d 1239, 1244 (Utah 1988) (holding that competency findings are subject to clear-error review); *State v. Beaudoin*, 970 A.2d 39, 42 (Vt. 2008) (observing that competency finding will not be overturned if supported by credible evidence and not clearly erroneous); *Grattan v. Commonwealth*, 685 S.E.2d 634, 642 (Va. 2009) (recognizing that competency to stand trial is a question of fact and determination will not be reversed unless plainly wrong or lacking evidentiary support); *State v. Smith*, 878 N.W.2d 135, 138, 146 (Wis. 2016) (concluding that competency determinations are reviewed under a clear-error standard).

Except for Iowa, which has described its approach as having been “somewhat inconsistent as to the standard of review” in competency appeals, *State v. Lyman*, 776 N.W.2d 865, 871 (Iowa 2010), we have found no jurisdiction applying a de novo, fact-reweighing approach on appellate review.

### ***Conclusion***

In conclusion, we do not read *Ganpat* as requiring de novo review. We instead review the district court’s factual findings to determine if they are clearly erroneous.

## II

Having clarified that we review the district court's factual findings for clear error, we now consider whether the district court gave "proper weight" to the evidence and whether its competency finding is adequately supported by the record. The state bore the burden of proving O'Neill's competency by a preponderance of the evidence. *See Curtis*, 921 N.W.2d at 348. O'Neill generally urges us to conclude that the district court erred because the evidence of incompetency was strong while the evidence of competency was weak. As we have explained, we will defer to the district court's findings unless they are clearly erroneous. The record reveals support for the finding and leads us to affirm the district court's competency decision.

The district court largely accepted Dr. Rogstad's opinion as both the most thorough and most focused on the specific competency issue presented. We afford broad deference to a fact-finder's determination of how to weigh expert testimony. *See State v. Roberts*, 876 N.W.2d 863, 868 (Minn. 2016). And the record does not suggest that the district court's crediting of Dr. Rogstad's opinion was the product of caprice. Dr. Rogstad's report did not merely state a conclusion conflicting with those reached by Drs. Reitman and Federici. It described why she reached a different conclusion, evaluating and reporting on whether O'Neill's failure to answer questions resulted from actual incompetence or instead resulted from pretense. Her testing convinced her that O'Neill's markedly discrepant presentations resulted from his feigning. She evaluated O'Neill and offered her competency opinion based on varied factors: O'Neill's retention and application of important information; his understanding and use of legal concepts; his comprehension of

his charge and its consequences; his grasp of legal alternatives and the adjudicative process; his ability to act in a rational, self-serving manner; and his understanding of specific legal situations and hypothetical scenarios. Dr. Rogstad provided the district court adequate evidence to support the competency finding.

O'Neill contends that the effects of his fetal-developmental disorder are so severe that they render him incompetent. He cites many such effects, including below-average comprehension, deficient communication, impaired decision-making, decreased memory, a tendency to confabulate, and varying difficulties to control attention, emotion, and impulse. He accurately indicates that the three experts agreed that he demonstrates a significant cognitive impairment with severe effects. But the existence of a cognitive impairment satisfies only one of the competency-related conditions referenced by the rule—the existence of a “mental illness or cognitive impairment.” Minn. R. Crim. P. 20.01, subd. 2. That condition does not reflect incompetence unless it also prevents the defendant from rationally consulting with counsel, understanding the proceedings, or participating in his defense. *Id.*, subd. 2(a)–(b). Dr. Rogstad’s opinion afforded the district court sufficient reason to find that these consequences were lacking.

O'Neill implies that the severity of his impairment, as established by Dr. Federici’s testimony, necessarily indicates legal incompetence. The rule imposes no such bright line. He also contends that the district court should have assigned greater weight to Dr. Federici’s testimony because of his more extensive knowledge of O’Neill’s cognitive disorder and its effects. But as the district court recognized, Dr. Federici is not a forensic psychologist, was unfamiliar with competency in the legal context, and did not focus his

evaluation on O’Neill’s legal competency. And more important to our decision today, for the reasons we have already indicated, it is not our role on appeal to decide what relative weight to assign to each piece of evidence or to each competing expert opinion.

For the same reason we dismiss O’Neill’s related argument that the district court should not have relied on Dr. Rogstad’s opinion because she was less familiar with O’Neill’s impairment than Dr. Federici. Similarly unconvincing is his argument that the district court improperly accepted Dr. Rogstad’s opinion that O’Neill was feigning incompetency in the face of Dr. Federici’s opinion that O’Neill’s symptoms would worsen if left untreated or if aggravated by drug misuse. And we also are unpersuaded by O’Neill’s implication that the district court was required to discredit Dr. Rogstad’s opinion because her evaluative procedure was deficient. All these arguments essentially urge us to reassess disputed facts and reweigh the conflicting expert opinions on appeal.

## **D E C I S I O N**

The question of whether the district court “properly weighed” the evidence as that phrase is meant in the caselaw is not at issue in this appeal, and, having reviewed the district court’s factual findings for clear error under the relevant component of the *Ganpat* standard, we hold that the district court’s competency finding is adequately supported by the record.

**Affirmed.**