Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE STATE OF RIDGEWAY

Syllabus

STATE *v.* INFINITY

APPEAL FROM THE SUPERIOR COURT OF RIDGEWAY

No. 22–04. Argued June 6, 2022—Decided June 15, 2022

On May 8th, 2022, the State charged appellee InfinityTurtleXD with second-degree murder. The State filed four exhibits, A-D. Exhibit A was a video of the accused committing the offense, exhibit B was an interview of the complaining witness, exhibit C was an interview of the defendant, and exhibit D was the police report generated by the State Bureau of Investigations. The defense then moved to strike exhibits B, C, and D for failing to authenticate the evidence without a "gif-refresh" and "ID display." The Superior Court suppressed exhibits B and C on the grounds that they failed to contain a "gif-refresh" and "ID display." The State subsequently appealed.

Held: The Superior Court erred in holding that Discord evidence must be authenticated by a refresh of the Discord client and obtaining an ID of the person in question. Pp. 1–10.

(a) As the motion presented resembles a motion to exclude, rather than a motion *in limine,* the appropriate standard of review in this case is *de novo*, as the Superior Court did not rely on factual determinations in its ruling. Pp. 1-3.

(b) The first clause in Rid. Rule Evid. 55 states that "Extrinsic evidence of authenticity, as a condition prec-edent to admissibility, is not required with respect to the following[.]" Such a clause acts as the parent clause in which all other enacting clauses ought to be read into, a similar interpretation scheme to *NLRB* v. *SW General, Inc.*, 137 S. Ct. 929. P. 5.

(c) The first clause of Rule 55, in which its contents directly stem from, sets a boundary of the application of the rule that the rule ought to be applied as a fallback when "[e]xtrinsic evidence of authenticity" is not provided by the parties. Thus, the rule provides that self-authentication of Discord evidence is merely optional, not a prerequisite for its

Syllabus

admission. Pp. 5-6.

(c) The hearsay question is better left to the Superior Court to make the first determination, as the issue is far more complex and deals directly with the evidence below. Pp. 7-10.

RSC-CM-350, vacated and remanded.

JACKSON, J., delivered the opinion of the Court, in which BURGER, C. J., and THOMAS, J., joined, and which POWELL, J., joined in part. POWELL, J., filed an opinion concurring in part and concurring in the judgment. GORSUCH, J., took no part in the consideration or decision of this case.

SUPREME COURT OF THE STATE OF RIDGEWAY

No. 22–04

STATE OF RIDGEWAY, APPELLANT *v.* INFINITYTURTLEXD

ON APPEAL FROM THE SUPERIOR COURT OF RIDGEWAY

[June 15, 2022]

JUSTICE JACKSON delivered the opinion of the Court.

On May 8th, 2022, the State charged appellee InfinityTurtleXD with second-degree murder. The State filed four exhibits, A-D. Exhibit A was a video of the accused committing the offense, exhibit B was an interview of the complaining witness, exhibit C was an interview of the defendant, and exhibit D was the police report generated by the State Bureau of Investigations. The defense then moved to strike exhibits B, C, and D for failing to authenticate the evidence without a "gif-refresh" and "ID display." The Superior Court suppressed exhibits B and C on the grounds that they failed to contain a "gif-refresh" and "ID display." The State appealed on May 22nd, and we noted probable jurisdiction. 1 Rid. 509.

I

When reviewing this matter, the Superior Court misinterpreted the law.

A

To begin, there is a large difference between a motion to exclude/suppress and a motion *in limine*. The errors that

this court ran into are predicated on the incorrect application of what type of review ought to be engaged in either situation. The erroneous legal conclusions become blatant when revealed that they were weighed with an incorrect analysis of the facts before the court.

Motions to exclude or suppress evidence, are used exclusively for constitutional or statutory prohibitions on the inclusion of the evidence rather than upholding the "more probative than prejudicial" principles of a fair trial. On the other hand, motions *in limine* are directly aimed at the admissibility of evidence. *Mansur* v. *Ford Motor Co.,* 197 Cal. App. 4th 1365, 1387, 129 Cal. Rptr. 3d 200, 217 (Cal. Ct. App. 2011). Motions *in limine* are directly aimed at offering evidentiary arguments, which are a matter of discretion, see *United States* v. *Abel*, 469 U. S. 45, 54 (1984), rather than posing a question of law, which falls under a wider blanket for review than an evidentiary one. While it is true that evidentiary exclusions *in limine* are reviewed as abuses of discretion, See *Sprint/United Management Co.* v. *Mendelsohn*, 552 U. S. 379, 384 (2008), there is a greater amount of deference to the trial courts on their decisions of evidence which would otherwise make these arguments much harder to assert under abuse-of-discretion review.

The first hurdle that must be decided is as to whether the motion presented by the defense, in their form notwithstanding their function are either a motion to exclude, or a de facto motion *in limine*. Motions *in limine* are entirely predicated on factual arguments and offers for proof in furtherance of their factual arguments. Exclusion motions are, for the most part, arguments based off legal than factual pretext. The motion entered by the defense, the responses from the government, and the order entered by the Superior Court reads like a legal argument, not like an evidentiary argument more akin to a motion *in limine*, thus not entitling appellate deference to the trial court. This then triggers our review *de novo*.

The next part to be determined is whether it ought to be reviewed in the way that it was. As mentioned earlier, the goals of a motion in these two categories are different, and therefore are reviewed under completely different standards. The goal of a question of law is to beg the meaning of a given statute, canon, or clause and further apply that piece of text as to the facts presented. Evidentiary arguments are entirely predicated on balancing the prejudicial and probative values of a piece of evidence and reviewing them in the context of their usage, and applying that context of usage with the Rules of Evidence. Our rules grant general admissibility for all relevant exhibits that do not violate the Constitution, statutory law, or other provisions of the Rules of Evidence. See Rid. Rule Evid. 11. The rules of evidence are clarifications as to what evidence is by its nature of composure - prejudicial. We find that the motion was reviewed as a question of law, and not as an evidentiary question. The rules of evidence are not meant to be answered, or reviewed by any court as a legal question in the same manner of which the Superior Court ruled. This is largely in part due to the subjective nature of evidence, and that a hyper-technical approach to evidence is only warranted unless you are dealing with a subliminal question of Constitutional or statutory provision. The hyper-technical approach to reviewing the evidence utilized by the Superior Court ultimately lead to its erroneous decision.

B

The usage of the due process clause by appellee to justify the exclusion of evidence is fundamentally flawed. The due process clause does not exist as a raw mineral to manufacture constitutional arguments where the text otherwise abandons you.

As previously ascertained, in most cases other than the one presented here today, rulings over evidence by a judge

is reviewed under an abuse-of-discretion standard with deference to the decisions of the trial court. See *Mendelsohn, supra* ("a district court's familiarity with the details of the case and its greater experience in evidentiary matters, courts of appeals afford broad discretion to a district court's evidentiary rulings") To argue the exclusion of prejudicial evidence under a due process standard turns the entire question into a constitutional one, which will ultimately fall onto our Court to figure out what exactly is a "fair trial." The problem is, is that we already have our own guidebook as to what we find to constitute a "fair trial." They are the Rules of Evidence. Other courts agree. See *People* v. *Partida*, 37 Cal.4th 428 (2005) ("[The] defendant may make a very narrow due process argument on appeal. He may argue that the asserted error in admitting the evidence over his Evidence Code section 352 objection had the additional legal consequence of violating due process.") The argument that appellee attempts to make what would normally be an evidentiary argument, which is reviewed as an abuse of discretion by our court, into an overarching constitutional argument, which is reviewed with a lot less deference to the trial court. If we were to allow even the slight manifesting of any due process rights in evidence other than what it inserted in the Rules of Evidence, we would be foreclosing fairness for a technical approach to evidence, and creating a second Rules of Evidence - the rulings of this court over trivial matters, something of which is to be avoided at all costs.

C

To begin, let's take a pragmatic look at the reasoning as to why self-authentication exists in the first place. It would be extremely time consuming to have the county clerk personally attest to every deed, record, or other instrument held in his custody, so we created a set of processes such that the county clerk does not need to be called to testify.

Instead, we allow the clerk to certify or endorse a given document and accept that, bearing his signature, the document is unaltered, original, and authentic. Self-authentication is only one means of proving the authenticity of a piece of evidence, and if you so truly wanted, you can get the in-court attestation as to the authenticity of a given record by the clerk. The role of the self-authentication rule, is by no means to place limits on what evidence is and ought to be considered authentic, but instead a route for the ease of use of all parties that wish to introduce a record as evidence. The purpose of the rule is not to prohibit, but expand the possibilities for establishing authenticity.

Rule 55 should only be looked upon when a party refuses to authenticate evidence through Rule 54. The very first clause of Rule 55 defines the extent of its application. "Extrinsic evidence of authenticity, as a condition precedent to admissibility, is not required with respect to the following[.]" This clause acts as the parent clause in which all other enacting clauses ought to be read into. This is a similar interpretation scheme to *NLRB* v. *SW General, Inc.*, 137 S. Ct. 929 (2017), in which the Court reviewed the construction of a law and seeks a higher clause to provide context for its lower clauses. It can only then be reasonably assumed, that if first clause of Rule 55, in which its contents directly stem from, sets a boundary of the application of the rule that the rule ought to be applied as a fallback when "[e]xtrinsic evidence of authenticity" is not provided by the parties. In no other case should the rule ought to be engaged. If the rule was to be forcefully applied as to the evidence, then it would give an imperative command that the rule must engage. Instead, it is not offered imperatively, but as a secondary means. Furthermore, "[Extrinsic proof of authenticity] not required with respect to the following[]" backs up this claim by clearly making it optional for a party to authenticate through Rule 55 and gives them a choice of using Rule 54. If the authors of the rules intended for Rule

55 to be used for Discord evidence, it would have been done so with an imperative command, not an optional requirement in a rule otherwise designed for efficiency.

Appellee's argument would only be successful as to this matter if we were to ignore every single provision surrounding the words "[t]hose displaying Discord must, however, authenticate identities through a client reload and display of Discord ID." We do not believe such a strict constructionist theory is palatable for interpreting the rules of evidence. As previously mentioned, evidence is a highly consequential, yet also highly subjective realm of law and to strictly construct the rules of evidence would inflict catastrophic consequence onto the trial courts. If the rules were meant to be, in any way, strictly constructed, then our regular standard of review regarding evidentiary decisions would be de novo and not an abuse of discretion. The doctrine of deference, is based on the fact that a judge knows best about their case, their facts, and the nuances that drove their decision. If we were to accept a strict construction, then the judge would be none the wiser compared to the justice. Instead, we have opted with a plain meaning approach using the framework previously ascertained. The plain meaning of Rule 55(d) is that those who wish to admit Discord evidence, and do not wish to call someone to testify as to its state, may do so if there is a client reload and display of a Discord ID. This conclusion was made taking into account the narrowed jurisdiction Rule 55 provides for itself.

The authors of the rule clearly intended for the refresh requirement to only be under evidence authenticated through Rule 55, and that evidence authenticated through other means does not require such. Rule 55 and Rule 54 have parallel clauses, those being Rule 54(b)(8) in which the rules allow for the authentication of "digital communications" by the submission of extrinsic evidence or testimony which allows the trial courts to make a "reasonable" determination. The only standard that the government must

meet in the authentication of its exhibits B and C, is that they offer additional proof, through testimony or further evidence, which would allow a reasonable trial judge to confirm its authenticity. What a trial judge requires for evidence to be considered authentic, through Rule 54, is of his own judgment - so long he is reasonable and does not abuse his discretion. If we were looking at this case as if it was an abuse of discretion, and not a question of law based on an erroneous interpretation of Rule 55, it would be much harder for appellant to be successful in their arguments. If the authors had true intention to insert a requirement for Discord evidence in general, it would have been positioned under Rule 54(b)(8) and demand that Discord evidence be authenticated in a certain way rather than completely leaving the authentication of a "digital communication" up to the discretion of the judge.

II

Appellee attempts to argue that *Greenlaw* v. *United States,* 554 U. S. 237 (2008), is a blanket prohibition on the party presentation rule. We disagree. Its holding is much narrower to say that "an appellate court may not alter a judgment to benefit a nonappealing party." See *Dan Ryan Builders, Inc.* v. *Crystal Ridge Development, Inc.,* 783 F.3d 976 (CA4 2015) (citing *Greenlaw*, 554 U. S., at 244).

On face value the party presentation rule seems like a perfectly logical doctrine to adopt as is, with then-Judge Scalia opining, "[t]he premise of our adversarial system is that appellate courts do not sit as self-directed boards of legal inquiry and research, but essentially as arbiters of legal questions presented and argued by the parties before them[]." See *Carducci* v. *Regan*, 714 F.2d 171, 177 (CADC 1983). Unfortunately, we do not believe this doctrine is palatable for our system of laws. This is not to say that we are attempting to grant ourselves carte blanche to right every perceived wrong.

We cannot do our own outside factual research to come to a conclusion as to a question. Therefore, any determination that we wish to make sua sponte must entirely be composed of the facts entered by the parties and the trial court. To do such a thing would create due process concerns over the evidence. See Frost, The Limits of Advocacy, 59 Duke L.J. 447 (2009). Furthermore, in doing so we would go beyond our appellate authority by, on our own measure, trying additional facts in a case. See *Mickens* v. *Taylor*, 535 U. S. 162, 177 (2002) (Kennedy, J., concurring) ("Our role is to defer to the District Court's factual findings unless we can conclude they are clearly erroneous."). Because of this, we cannot insert and answer our own question, if the facts surrounding that question do not share the same facts as the other questions, or cannot be found in the trial record.

Appellee'ss own argument facets leniency around *pro se* litigants because they are not normally expected to actually know the law. Our bar examination is nothing more than a basic competency test with the word "versus" thrown around every so often with fancy citations. Our lawyers do not spend 3 painstaking years of their life in the study of the laws, and further have completed a strenuous examination of basic ability to be a successful advocate. If we were comparing knowledge, we would be closer to a *pro se* litigant more than an admitted attorney. This coupled with an enclave of 250 years of precedent, makes it an overwhelming task to expect anyone, including our most veteran and well learned attorneys to completely know the entirety of law. At an objective stance, we all have the legal intellect akin to a *pro se* litigant. Judges and justices alike need to be afforded the opportunity to act upon their discretion and say what the law is, notwithstanding the briefs they are predicated upon. If we were to zip-tie ourselves then we lose our fundamental concern to "say what the law is." See *Crystal Ridge*, *supra* ("A party's failure to identify the applicable legal rule certainly does not diminish a court's responsibility

to apply that rule."). One caveat to this, is that we were to add grounds for *sua sponte* decision making and question additions, they must only be on grounds where parties did not intentionally exclude them. We do not find it acceptable to answer a question where both parties intended for the controversy to not be adjudicated upon.

Another concern which provides legs to the party presentation rule is that when a Judge or Justice goes *sua sponte*, they lose their black robes and become an adversarial party. We do not agree. Impartiality is not lost when the court invites parties to submit briefs on a question it deems relevant or inevitable for solving the controversy. Instead, just as in this case, it is a proactive measure to address a matter the court finds that it will not avoid in its decision making. By creating an additional question, or in the case of the Superior Court, requiring supplemental pleadings on law not originally plead to, is a way of the court affording the parties to be heard on the controversy and not be victim to a runaway court esteeming to resolve the issues of the world unilaterally. We believe that if we are ought to insert an additional question, both parties must be able to brief and argue on it. To do so, would be depriving parties the ability to be heard, and thereby an abuse of discretion. See *Ms. S.* v. *Regional School Unit 72*, 916 F.3d 41 (CA1 2019).

We also cannot go beyond what was adjudicated in the Superior Court. See *Hankins* v. *Lyght*, 441 F. 3d 96, 114 (CA2 2006) (Sotomayor, J., dissenting); *Tylicki* v. *Schwartz*, 401 F. App'x 603, 604 (CA2 2010). There are however some exceptions to this rule where "the proper resolution is beyond any doubt" or "injustice might otherwise result," see *Singleton* v. *Wulff*, 428 U. S. 106 (1976), as well as a situation in which a court considers an issue "antecedent to ... and ultimately dispositive of' the dispute before it, even an issue the parties fail to identify and brief." See *United States Nat. Bank of Ore.* v. *Independent Ins. Agents of Amer-*

ica, Inc., 508 U. S. 439, 447 (1993). The court may also entertain additional legal theories to apply the proper construction of law. See *Kamen* v. *Kemper Financial Services, Inc.*, 500 U. S. 90, 99 (1991).

Due to the fact that the hearsay issue has not been heard by the Superior Court, and the issue is an evidentiary decision best left for the Superior Court, we decline to answer it. The judgment of the Superior Court is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE GORSUCH took no part in the consideration or decision of this case.

SUPREME COURT OF THE STATE OF RIDGEWAY

No. 22–04

STATE OF RIDGEWAY, APPELLANT *v.* INFINITYTURTLEXD

ON APPEAL FROM THE SUPERIOR COURT OF RIDGEWAY

[June 15, 2022]

JUSTICE POWELL, concurring in part and concurring in the judgment.

I join the opinion of the Court insofar it holds that the Superior Court's judgment regarding the self-authentication of Discord evidence should be vacated. In my view the drafters of the Ridgeway Rules of Evidence did not intend to require that all Discord evidence be self-authenticating – rather, Discord evidence that includes a refresh of the Discord client, as well as the ID of the user, is automatically self-authenticating. See Rid. Rule Evid. 55 ("Extrinsic evidence of authenticity, as a condition precedent to admissibility, is not required with respect to the following..."). I also agree that the hearsay issue raised by us should be decided by the Superior Court in the first instance. We are a court of "review, not of first view." *Adarand Constructors, Inc.* v. *Mineta,* 534 U. S. 103, 110 (2001); *Cutter* v. *Wilkinson,* 544 U. S. 709, 718 n. 7 (2005). I do not, however, agree with the majority's rationale in holding that *de novo* review was appropriate for the authenticating issue.

Ordinarily, when reviewing a decision from the Superior Court, "decisions on questions of law are reviewable *de novo*, decisions on questions of fact are reviewable for clear error, and decisions on matters of discretion are reviewable for abuse of discretion." *Highmark Inc.* v. *Allcare Health Management System, Inc.,* 572 U. S. 559, 563 (2014) (internal quotation marks omitted); see also *Pierce* v. *Underwood*,

487 U. S. 552, 558 (1988). Although it may not be obvious at first glance, the standard of review may be critical to the outcome of the case. See *Dickinson* v. *Zurko*, 527 U. S. 150, 162 (1999) ("The upshot in terms of judicial review is some practical difference in outcome depending upon which standard is used"). For example, although substantial deference is afforded to the lower court's findings and ruling when reviewing for abuse of discretion or clear error,[1] "[w]hen de novo review is compelled, no form of appellate deference is acceptable." *Salve Regina College* v. *Russell*, 499 U. S. 225, 238 (1991). As the majority correctly points out, thus, judicial deference might as well be a major factor in the outcome of a certain case.[2]

The majority is correct in stating that motions to exclude or suppress are a matter of law. After all, the basis for such motions comes from the Fourth Amendment's exclusionary rule, which requires state courts to exclude evidence "obtained in violation of the Fourth Amendment." *Wright* v. *West,* 505 U. S. 277, 293 (1992); see also *Mapp* v. *Ohio*, 367 U. S. 643, 654-660 (1961); *Simmons* v. *United States,* 390 U. S. 377, 389 (1968). Thus, as a matter of law, the grant or a denial of a motion to suppress evidence on constitutional grounds is most certainly a matter of law, to be reviewed *de novo.* On the other hand, motions *in limine* are evidentiary challenges rooted in the Ridgeway Rules of Evidence, which

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[1] *E.g.*, *Easley* v. *Cromartie*, 532 U. S. 234, 242 (2001) (noting that an appellate court reviewing for clear error cannot reverse a lower court's finding of fact simply because [it] would have decided the case differently") (internal quotation marks omitted); *Concrete Pipe & Products of Cal, Inc.* v. *Construction Laborers Pension Trust for Southern Cal.*, 508 U. S. 602, 623 (1993) (similar); *Anderson* v. *Bessemer City*, 470 U. S. 564, 573 (1985) (similar); *Cooter & Gell* v. *Hartmarx Corp*., 496 U. S. 384, 403-404 (1990) (emphasizing the deferential nature of abuse of discretion); *Koon* v. *United States*, 518 U. S. 81, 98-99 (1996) (same); *General Electric Co.* v. *Joiner*, 522 U. S. 136, 143 (1997) (same).

[2] As I explain below, however, that is not the case here.

accord the Superior Court a "wide discretion" in order to determine whether evidence should be admitted under it. Cf. *United States* v. *Abel,* 469 U. S. 45, 54 (1984). Such a practice allows the trial court, with its "familiarity with the details of the case and its greater experience in evidentiary matters," to resolve such issues without expecting the appellate court to undertake its own independent analysis of the matter at hand. *Sprint/United Management Co.* v. *Mendelsohn*, 552 U. S. 379, 384 (2008). Thus, as the majority correctly points out, the Superior Court's rulings on motions *in limine* would necessarily be reviewed for abuse of discretion. *Id.*

I agree with the majority that the motion presented below was erroneously titled as a "motion to strike." Those motions are presented when testimony during the trial has been successfully objected to, or, in the civil context, when a pleading contains "any insufficient defense, or any redundant, immaterial, impertinent, or scandalous matter." Rid. Rule Civ. Proc. 12(c). I do not, however, believe that the motion was a motion to exclude, as the majority ultimately holds. For one, the issue presented before us centers solely on whether certain evidence must be self-authenticating under Rid. Rule Evid. 55(d). As the majority has already pointed out, a matter under Rule 55(d) is a matter under the Ridgeway Rules of Evidence, and should be reviewed for abuse of discretion, as the Supreme Court has held for nearly 140 years. Abandoning a line of rulings holding that evidentiary matters are matters of discretion would seem unwise, especially when such a holding has been reaffirmed only recently. Second, the original grounds for the motion *in limine* below all relied on some section of the Ridgeway Rules of Evidence, see App. 6-7 (citing Rid. Rule Evid. 55(d), then citing Rid. Rule Evid. 50(c), and finally citing Rid. Rule Evid. 10(1)). In none of the arguments supporting the motion to suppress did appellee raise a constitutional claim,

and no such issue is presented here by the State. The evidentiary motion is more akin to a motion *in limine,* and therefore the deferential abuse-of-discretion standard applies to the Superior Court's ruling on the motion. The majority claims that the motion presented was *not* a motion *in limine,* simply because ultimately, the Superior Court's judgment rested on a purely legal determination. But the fact that the Superior Court did not rely on factual determinations does not change the type of motion presented, as the majority suggests. Again, a motion *in limine* attacks evidence sought to be admitted based on its relevance or admissibility under the Ridgeway Rules of Evidence, and again, those rules provide the Superior Court with a wide discretion to determine the admissibility of such evidence. See *Abel, supra*; also cf. *Spring Co.* v. *Edgar,* 99 U. S. 645, 658 (1879).

The majority suggests that the adoption of the *de novo* standard in this case is simply because it is a lower burden for the State to meet. *Ante,* at 2. We should not, however, attempt to change the appropriate standard of review, especially one that has been well-settled for 140 years, simply because one party would face a higher burden under that standard than another.[3] To do so would be a weak attempt to skirt the proper administration of justice, and we risk besmirching the sound administration of justice and respect for the lower court's decision that is associated with the deferential nature of abuse-of-discretion review. *Cooter & Gell* v. *Hartmarx Corp.,* 496 U. S. 384, 403 (1990). As the court that exercises original jurisdiction over all criminal cases, see Rid. Const. Art. V, §IV, the Superior Court is in a far better position to decide evidentiary matters. See

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[3] Another factor counselling against *de novo* review of evidentiary issues is that it would require the appellate to invest time and energy in the unproductive task of determining "not what the law now is, but what the Government was substantially justified in believing it to have been." *Cooter & Gell, supra,* at 403 (quoting *Pierce, supra,* at 561).

Sprint/United Management, supra, also cf. *Miller* v. *Fenton,* 474 U. S. 104, 114 (1985). We should respect the Superior Court's judgment in this case, as this Court does not regularly deal with evidentiary matters at a comparable rate of that with the Superior Court. Furthermore, the abuse-of-discretion standard applies in this case does not affect our ability to correct the Superior Court's legal or factual error, as the majority may claim. *Highmark, supra,* at 563 n. 2; also cf. *Cooter & Gell*, *supra,* at 402 ("[I]f a [trial] court's findings rest on an erroneous view of the law, they may be set aside on that basis.") (quoting *Pullman-Standard* v. *Swint,* 456 U. S. 273, 287 (1982)). The Superior Court would necessarily abuse its discretion if it bases its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence. See *Dart Cherokee Basin Co*. v. *Owens*, 574 U. S. 81, 91 (2014); *Cooter & Gell*, 496 U. S., at 405; see also *Koon* v. *United States*, 518 U. S. 81, 100 (1996) ("A [trial] court by definition abuses its discretion when it makes an error of law").[4] Thus, although we review for an abuse of discretion, the deference to the Superior Court's judgment is lost when it relies on an erroneous legal determination.

I concur in the judgment because I believe that the Superior Court abused its discretion in striking Exhibits B and C below. Here, like the majority, I believe the Superior Court misconstrued the text of Rule 55(d) in holding that Discord evidence must be self-authenticating to be admissible. The first clause, as the majority points out, indicates

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[4] Indeed, some members of the majority believe that the deferential nature of abuse-of-discretion review requires us to adopt the Superior Court's views without any sort of action. This view, however, is mistaken; the deference given to the Superior Court's decision merely means that we should affirm the decision of the Superior Court unless we find a reliance on a legal or factual determination that is "manifestly erroneous." *General Electric Co., supra,* at 142. As I explain in the next paragraph, I agree with the majority that the Superior Court relied on an erroneous view of the law, and thus its judgment should be vacated.

that no "[e]xtrinsic evidence of authenticity" would be required in the case that the Discord evidence being provided contains a refresh, as well as the ID of the subject. And in this context, extrinsic would mean external or outside. See, *e.g.*, American Heritage Dictionary 629 (5th ed. 2016); New Oxford American Dictionary 615 (3d ed. 2010). By interpreting Rule 55(d) as a rigid mandate for all Discord evidence to be self-authenticating, the Superior Court committed an error of law. Rule 55(d)'s purpose is to afford broad discretion to trial judges as to whether Discord evidence is admissible, not incorporate a strict "all-or-nothing" mandate.[5]

For the foregoing reasons, I join the opinion of the Court insofar as it holds that the Superior Court misapplied the law in excluding exhibits B and C below, and that the hearsay issue should be decided in the Superior Court first, but concur in the judgment only insofar as the majority holds that review *de novo* is the appropriate standard of review for evidentiary matters.

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[5] Of course, the discretion granted to judges is not a freestanding power for the judge to do whatever he wants. *Martin* v. *Franklin Capital Corp.,* 546 U. S. 132, 139 (2005) (noting that a court's "[d]iscretion is not whim"). Discretionary choices should not be guided by a "court's inclination, but [by] its judgment; and its judgment is to be guided by sound legal principles." *United States* v. *Taylor*, 487 U. S. 326, 336 (1988) (internal quotation marks omitted).