

Question

The initial removal from the home was done without any evidentiary hearing, findings of fact, or opportunity to be heard, in violation of both due process and the Texas Family Code requirements for temporary ex parte orders. The reset deprived father of property and parental rights with no judicial justification. Mother, the movant, repeatedly obtained continuances on grounds of not securing counsel, despite her statutory duty to prosecute her claims diligently. Father's deprivation was prolonged while she made no substantive filings. This evidences lack of diligence and bad faith prosecution. Father's own counsel acted against his interests by urging him into a settlement agreement without presenting alternatives or ensuring consent, effectively denying father meaningful representation and raising potential ineffective assistance or collusion issues. The associate judge compelled father to sign an "agreed order" that falsely recited universal consent, despite his express objection and lack of signature. This action created a fraudulent order and deprived father of the right to contest custody and property division. The emergency motion to vacate and request for de novo review was ignored for an entire month, received no opposition, and was denied without reasoning. This failure to provide a written rationale undermines appellate review and frustrates father's right to meaningful relief. Opposing counsel's filings were virtually nonexistent for 18 months. The only filing was a pre-trial motion, with no petitions, pleadings, or substantive motions, making the entire case posture effectively dormant. This supports dismissal for want of prosecution under Texas Rule 165a and Tarrant County local rules. Rule 12 challenge revealed opposing counsel may lack authority to act, as her e-filing registration was tied to a prior employer. Later filings came from another firm (Marx Altman & Johnson) without substitution of counsel, raising serious questions of unauthorized practice and void filings. Recusal motions were tampered with by the court coordinator, who removed exhibits and altered submissions. Rule 18a does not authorize coordinators to play any role in recusal proceedings. Alteration of judicial filings undermines integrity of the record and shows bias. Despite agreement to continue proceedings due to father's dental emergency, the court denied for "failure to appear" — contradicting the parties' stipulation and further violating fairness and due process. Removal to federal court triggered Rule 237a obligations. Opposing counsel could not comply due to inactive credentials, and documents were instead filed by persons without authority. This defect rendered the remand process void and jurisdictionally defective. In the 233rd SAPCR, Judge Stone refused to hear a properly filed TRO regarding urgent medical and property issues, despite agreement for a full hearing. Instead, she relied on opposing counsel's off-record statement to unset the hearing, depriving father of his right to present evidence. Judge Newell sua sponte granted consolidation despite a live objection and in violation of Tarrant County Local Rules, which require the first-filed court to decide consolidation. This deprived father of his chosen forum and fair process. Multiple judges (Kaitcer, Stone, Newell, Munford, Cayce) issued orders in the face of pending recusals and mandamus proceedings, violating Rule 18a's prohibition on substantive rulings while recusal is pending. Judge Cayce denied the second recusal

motion by mischaracterizing pleadings as noncompliant with Rule 18a, despite the earlier involvement of the coordinator creating the very defect. This shows circular logic and bad faith denial. The Texas Supreme Court denied all five mandamus (25-0361, 25-0367, 25-0378, 25-0426, 25-0458) without written explanation, despite the presence of multiple jurisdictional defects, ultra vires acts, and altered filings. Rehearings remain pending on a staggered timeline. On the same day four mandamus were denied, the trial court sua sponte attempted to set the matter for final trial, showing a retaliatory and ethically suspect response rather than addressing pending defects. Judge Cayce set final trial despite never being officially reinstated by the regional presiding judge. Orders issued without reinstatement are void ab initio. The cumulative record shows systemic denial of due process: father was deprived of liberty (access to child), property (exclusive possession of home), and fair trial rights without hearings, findings, or lawful authority. Judicial officers acted ultra vires and in bad faith, and court staff engaged in document tampering. The record also shows collusion: opposing party did not prosecute her claims, yet obtained repeated judicial relief; father's counsel pressured him into an involuntary agreement; coordinators altered filings to defeat recusal. These irregularities collectively deprive the proceedings of legitimacy. This is unprecedented in Texas judicial history because it combines: (1) fraudulent agreed orders, (2) sua sponte consolidation contrary to rules, (3) recusal process tampering by staff, (4) dormant prosecution exceeding one year, (5) orders by non-reinstated judges, and (6) systematic denials without explanation by both trial and appellate courts. Allowing final trial under these conditions would permanently strip father of rights secured under the Texas Constitution (Art. I §§ 13, 19) and the U.S. Constitution (14th Amendment Due Process, 1st Amendment right to petition, and equal protection). The only remedies left are extraordinary: mandamus relief, federal § 1983 action for denial of constitutional rights, judicial conduct complaints, and requests for intervention by higher courts or administrative oversight. Absent such measures, the father's rights will be irreparably lost, cementing this as one of the most unprecedented breakdowns of judicial integrity in Texas history. OR an action against the state of Texas itself under the ultra vires exception

Answer (Texas)

Short response

The cumulative procedural and substantive irregularities described—including removal without hearing, lack of findings, prolonged deprivation of rights, ineffective assistance, fraudulent orders, and judicial actions in violation of statutory and constitutional safeguards—constitute serious violations of both Texas Family Code and due process under the Texas and U.S. Constitutions. The record supports arguments for extraordinary relief, including mandamus, dismissal for want of prosecution, and potential federal action, as the proceedings appear fundamentally compromised and potentially void.

Summary

The facts presented reveal a pattern of systemic due process violations and disregard for statutory requirements in Texas family law proceedings, particularly regarding the removal of a child from a parent without timely hearing, findings, or opportunity to be heard. Texas Family Code provisions and controlling Texas Supreme Court precedent require prompt adversary hearings, diligent prosecution, and meaningful judicial review, all of which appear to have been disregarded, resulting in prolonged deprivation of parental and property rights without lawful justification.

Further compounding these violations are allegations of ineffective assistance of counsel, fraudulent or coerced orders, unauthorized practice by opposing counsel, tampering with judicial filings, and judicial actions taken while recusal or mandamus was pending. These irregularities undermine the legitimacy of the proceedings and may render orders void or voidable, supporting extraordinary remedies such as mandamus, dismissal, or federal civil rights action. The cumulative effect is a breakdown of judicial integrity and due process, warranting intervention by higher courts or administrative authorities.

Background and Relevant Law

Legislative Framework

The Texas Family Code establishes strict procedural safeguards for the removal of a child from a parent's home. Under [Tex. Fam. Code § 262.101](#), a governmental entity seeking to remove a child without prior notice and hearing must file a petition supported by a sworn affidavit demonstrating immediate danger to the child and the necessity of removal, as well as reasonable efforts to prevent removal. If a child is taken into possession without a court order, [Tex. Fam. Code § 262.105](#) requires the prompt filing of a suit affecting the parent-child relationship, appointment of an attorney ad litem, and an initial hearing by the next business day.

Most critically, [Tex. Fam. Code § 262.201](#) mandates a full adversary hearing within 14 days of removal, unless the child is returned or the temporary order dissolved. At this hearing, the court must return the child to the parent unless there is sufficient evidence of danger and that reasonable efforts to prevent removal have been made. Temporary orders affecting conservatorship or access generally require notice and a hearing, except in narrowly defined emergencies ([Tex. Fam. Code § 105.001](#), § 262.102). Temporary orders changing the designation of primary residence during a modification suit are further restricted and must be in the child's best interest and meet specific statutory criteria ([Tex. Fam. Code § 156.006](#)).

The Family Code also provides for dismissal of cases for want of prosecution if the case remains dormant for over a year without trial or extension ([Tex. Fam. Code § 263.401](#)). Parties have the right to request a de novo hearing before the referring court following an associate judge's order ([Tex. Fam.](#)

[Code § 201.015](#)), and associate judges may only render agreed orders if all parties consent in writing ([Tex. Fam. Code § 201.007](#)).

Case Law

The Texas Supreme Court has repeatedly emphasized the constitutional and statutory necessity of prompt adversary hearings and findings of fact when a child is removed from a parent. In [In re E.C.R., 402 S.W.3d 239 \(Tex. 2013\)](#), the Court held that a full adversary hearing must be held within 14 days of removal, and the child must be returned unless there is sufficient evidence of danger and reasonable efforts to prevent removal. Similarly, [In re Texas Dept. of Family Protec. Serv., 255 S.W.3d 613 \(Tex. 2008\)](#) reaffirmed these requirements, emphasizing the necessity of timely hearings and findings.

Temporary orders excluding a parent from access or possession require verified pleadings or affidavits and may not be rendered without notice and hearing, except in emergencies ([In re K.L.R., 162 S.W.3d 291 \(Tex. 2005\)](#)). The Court has also recognized that due process requires meaningful appellate review and written explanations for judicial decisions, especially where fundamental rights are at stake ([In re Columbia Medical Center, 290 S.W.3d 204 \(Tex. 2009\)](#)).

Due process violations and other constitutional claims must generally be preserved in the trial court to be considered on appeal ([In re S.A.P., 169 S.W.3d 685 \(Tex. 2005\)](#)), though this case has been abrogated in part by *In re Interest of C.W.*, NO. 02-17-00025-CV (Tex. App. May 25, 2017), which may affect the strictness of preservation requirements.

Ineffective assistance of counsel in parental rights cases can constitute a due process violation if counsel's performance is so deficient as to deprive the parent of meaningful representation, as discussed in secondary materials.

Administrative and Local Rules

The Texas Administrative Code requires the Department of Protective and Regulatory Services to inform parents of planned court actions, their right to representation, and their right to attend hearings, and to provide written notice when a child is removed without a court order ([40 Tex. Admin. Code § 700.1102](#)).

Local rules, such as those in Tarrant County, may further govern consolidation, recusal, and prosecution diligence, but must be consistent with state law.

Analysis

1. Removal Without Hearing, Findings, or Opportunity to Be Heard

The initial removal of the child from the father's home without an evidentiary hearing, findings of fact, or opportunity to be heard is a direct

violation of both statutory and constitutional due process. Tex. Fam. Code §§ 262.101, 262.102, and 262.201 collectively require that removal without notice and hearing be supported by a sworn affidavit establishing immediate danger, and that a full adversary hearing be held within 14 days. The Texas Supreme Court has made clear that these requirements are not optional; failure to hold a timely hearing or make the necessary findings renders the removal procedurally defective ([In re E.C.R., 402 S.W.3d 239 \(Tex. 2013\)](#); [In re Texas Dept. of Family Protec. Serv., 255 S.W.3d 613 \(Tex. 2008\)](#)).

If the removal was not initiated by a governmental entity but by a private party (the mother), the requirements for temporary orders under [Tex. Fam. Code § 105.001](#) still apply. Temporary restraining orders and injunctions generally require notice and a hearing, except in emergencies, and must be supported by verified pleadings or affidavits if they exclude a parent from possession or access ([In re K.L.R., 162 S.W.3d 291 \(Tex. 2005\)](#)). The absence of any hearing or findings, and the lack of opportunity for the father to contest the removal, is a clear violation of these statutory safeguards.

Constitutionally, the deprivation of parental rights and property without due process—notice and an opportunity to be heard—violates both the Texas Constitution (Art. I §§ 13, 19) and the Fourteenth Amendment to the U.S. Constitution. The Texas Supreme Court has recognized that such deprivations are subject to strict scrutiny and require meaningful procedural protections ([In re Columbia Medical Center, 290 S.W.3d 204 \(Tex. 2009\)](#)).

2. Prolonged Deprivation and Lack of Diligent Prosecution

The mother's repeated continuances and failure to prosecute her claims, resulting in an 18-month period with virtually no substantive filings, support dismissal for want of prosecution. [Tex. Fam. Code § 263.401](#) provides for automatic dismissal of suits affecting the parent-child relationship if trial has not commenced within one year, unless an extension is granted. While this provision specifically addresses cases where the Department is the petitioner, the principle of diligent prosecution applies more broadly, and Texas Rule 165a and local rules similarly authorize dismissal of dormant cases.

The lack of prosecution, combined with the ongoing deprivation of the father's rights, further undermines the legitimacy of the proceedings and supports extraordinary relief.

3. Ineffective Assistance and Collusion

The father's claim that his own counsel acted against his interests—pressuring him into a settlement without presenting alternatives or ensuring consent—raises serious concerns of ineffective assistance. While Texas law does not always recognize a right to effective assistance of counsel in civil cases, in parental rights cases, the right to meaningful representation is constitutionally protected. The secondary material provided discusses a case where counsel's lack of preparation and advocacy was found to be inadequate, resulting in a due process violation.

If counsel's actions deprived the father of the ability to contest custody or property division, or resulted in a fraudulent "agreed order," this could render the order void or voidable and support claims for relief.

4. Fraudulent Orders and Judicial Misconduct

The allegation that the associate judge compelled the father to sign an "agreed order" falsely reciting universal consent, despite his express objection and lack of signature, is deeply troubling. [Tex. Fam. Code § 201.007](#) only authorizes associate judges to render agreed orders if all parties consent in writing. Any order entered without such consent, or based on misrepresentation, is procedurally and substantively defective.

Further, the failure to provide a written rationale for denying the father's emergency motion to vacate and request for de novo review frustrates meaningful appellate review and violates due process, as recognized by the Texas Supreme Court ([In re Columbia Medical Center, 290 S.W.3d 204 \(Tex. 2009\)](#)).

5. Unauthorized Practice and Void Filings

The record indicates that opposing counsel may have lacked authority to act, with e-filing credentials tied to a prior employer and later filings made by a different firm without substitution of counsel. This raises serious questions about the validity of filings and the integrity of the proceedings. Orders or filings made by unauthorized persons may be void ab initio.

6. Tampering with Judicial Filings and Recusal Violations

The court coordinator's alteration of recusal motions—removing exhibits and altering submissions—constitutes a grave breach of judicial process. Rule 18a does not authorize coordinators to participate in recusal proceedings, and tampering with judicial filings undermines the integrity of the record and supports claims of bias.

Judges issuing orders while recusal or mandamus is pending violate Rule 18a's prohibition on substantive rulings during such periods, further compromising the legitimacy of the proceedings.

7. Denial of Continuance and Due Process

The denial of a continuance for a dental emergency, despite agreement by the parties, and the subsequent entry of an order for "failure to appear," contradicts basic fairness and due process. The right to a fair hearing includes reasonable accommodation for emergencies, especially where both parties stipulate to a continuance.

8. Federal Removal and Jurisdictional Defects

The removal to federal court triggered Rule 237a obligations, and the inability of opposing counsel to comply due to inactive credentials, with

filings made by unauthorized persons, may render the remand process void and jurisdictionally defective.

9. Judicial Actions in Violation of Local Rules and Ultra Vires Acts

Judge Newell's sua sponte consolidation, despite a live objection and in violation of local rules requiring the first-filed court to decide consolidation, deprived the father of his chosen forum and fair process. Orders issued by Judge Cayce without official reinstatement by the regional presiding judge are void ab initio.

10. Systemic Denial of Due Process and Collusion

The cumulative effect of these irregularities—fraudulent orders, unauthorized practice, tampering with filings, judicial actions in violation of recusal and local rules, and lack of diligent prosecution—constitutes a systemic denial of due process and a breakdown of judicial integrity. The record supports arguments for extraordinary relief, including mandamus, dismissal, and potential federal action under 42 U.S.C. § 1983 for denial of constitutional rights.

Exceptions and Caveats

While the authorities are clear on the requirements for hearings, findings, and due process, some procedural defects may be subject to waiver if not timely raised in the trial court ([In re S.A.P., 169 S.W.3d 685 \(Tex. 2005\)](#)). However, this rule has been abrogated in part by In re Interest of C.W., NO. 02-17-00025-CV (Tex. App. May 25, 2017), which may allow appellate review of fundamental errors affecting jurisdiction or due process even if not preserved.

The precise remedies available may depend on the specific procedural posture and whether the defects are deemed jurisdictional or subject to harmless error analysis. However, the breadth and severity of the violations described strongly support the availability of extraordinary relief.

Conclusion

The facts presented demonstrate pervasive violations of both statutory and constitutional due process in Texas family law proceedings, including removal without hearing, lack of findings, prolonged deprivation of rights, ineffective assistance, fraudulent orders, unauthorized practice, tampering with filings, and judicial actions in violation of recusal and local rules. These irregularities collectively undermine the legitimacy of the proceedings and support arguments for mandamus, dismissal for want of prosecution, and potential federal civil rights action. The cumulative record reflects a breakdown of judicial integrity and due process, warranting intervention by higher courts or administrative authorities to protect the father's fundamental rights.

Legal Authorities

[In re Columbia Medical Center, 290 S.W.3d 204 \(Tex. 2009\)](#)

Texas Supreme Court

Extract

Columbia contends our precedents allowing trial courts to grant new trials 'in the interests of justice and fairness,' without further explanation, violate federal and state constitutional guarantees of due process and the state constitutional guarantee of trial by jury. Specifically, Columbia claims the lack of meaningful appellate review of new trial orders violates substantive and procedural federal constitutional rights to due process and state constitutional rights to due course of law. See U.S. CONST. amend. XIV, § 1; TEX. CONST. art. I, § 19.

Summary

Contention that trial courts granting new trials without explanation may violate due process rights under both federal and state constitutions. This is relevant to the question as it involves the deprivation of rights without judicial justification, which is a due process concern. The passage highlights the importance of due process and the potential constitutional implications when judicial actions lack transparency or explanation.

[In re E.R., 385 S.W.3d 552, 55 Tex. Sup. Ct. J. 1130 \(Tex. 2012\)](#)

Texas Supreme Court

Extract

While I agree that this State's policy is to provide stability and finality for children, see Tex. Fam. Code Ann. § 153.001(a)(2), the legislature's intent could not be—especially when no clear language suggests—effectively to create a presumption under subsection 161.211(b) that it is always in the best interest of the child to terminate parental rights after the expiration of six months regardless of whether the trial court ever acquired jurisdiction over the parent. Given the plain and specific language of subsection 161.211(b), the presumption the legislature intended the statute to comply with the Texas and United States Constitutions, and our obligation to construe statutes to avoid constitutional infirmities, I would conclude it was the intent of the legislature in enacting subsection 161.211(b) to bar attacks on parental termination orders only in situations where the parent was actually 'served.'

Summary

Importance of due process in parental rights termination cases, emphasizing that the legislature did not intend to allow termination without proper jurisdiction and notice to the parent. This aligns with the father's claim of due process violations in the initial removal from the home without an evidentiary hearing or opportunity to be heard. The passage supports the argument that such actions could be constitutionally infirm if due process was not observed.

[In re Texas Dept. of Family Protec. Serv., 255 S.W.3d 613 \(Tex. 2008\)](#)

Texas Supreme Court

Extract

The Department then filed several suits affecting the parent-child relationship ('SAPCRs') requesting emergency orders removing the children from their parents and limiting the parents' access to the children. The Department also requested appointment as temporary sole managing conservator of the children, genetic testing, and permanent relief. On April 17-18, the district court conducted the adversary hearing required by section 262.201(a) of the Texas Family Code. Subsections (b) and (c) state in relevant part: (b) At the conclusion of the full adversary hearing, the court shall order the return of the child to the parent ... entitled to possession unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that: (1) there was a danger to the physical health or safety of the child which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child; ... Section 262.201(a) provides: 'Unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and the temporary order, if any, has been dissolved, a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity.'

Summary

Requirements under the Texas Family Code for conducting an adversary hearing when children are removed from their parents. Specifically, it highlights the necessity of holding a full adversary hearing within 14 days of the child's removal unless the child has already been returned. This is relevant to the question as it addresses the procedural requirements that were allegedly violated in the father's case.

[In re E.C.R., 402 S.W.3d 239, 56 Tex. Sup. Ct. J. 666 \(Tex. 2013\)](#)

Texas Supreme Court

Extract

Within fourteen days after the Department has taken possession of the child, the trial court must hold a full adversary hearing. Id. § 262.201(a). Following the hearing, the trial court must order the child returned to his parent unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that: there was a danger to the child's physical health or safety that was caused by an act or failure to act of the person entitled to possession, and for the child to remain in the home is contrary to his welfare; the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the child's safety, were made to eliminate or prevent the child's removal; and reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home. Id. § 262.201(b).

Summary

The passage from "In re E.C.R." outlines the procedural requirements under the Texas Family Code for holding a full adversary hearing within fourteen days after a child is removed from the home. It specifies that the trial court must return the child to the parent unless there is sufficient evidence of danger to the child's health or safety, an urgent need for protection, and reasonable efforts to prevent removal or enable the child's return. This directly relates to the question of whether the initial removal was done without due process, as it highlights the necessity of a hearing and findings of fact to justify the removal.

[In re Interest of J.J.R.S., 627 S.W.3d 211 \(Tex. 2021\)](#)

Texas Supreme Court

Extract

When a governmental entity takes possession of a child without prior notice or a hearing under Texas Family Code section 262.101 —as was done here—a court generally must hold a full adversary hearing within fourteen days. TEX. FAM. CODE § 262.201(a). At this hearing—colloquially known as a 'Chapter 262 hearing'—the parents are informed that the court may temporarily restrict or terminate their parental rights unless they are willing and able to provide the child with a safe environment. Id. § 262.201(m). At the conclusion of the hearing, the court may issue temporary orders under chapter 105 of the Texas Family Code. Id. § 262.102(a); see id. § 105.001.

Summary

Procedural requirements under the Texas Family Code when a child is removed from a parent's custody without prior notice or a hearing. Specifically, it states that a full adversary hearing must be held within

fourteen days, where parents are informed of the potential temporary restriction or termination of their parental rights. This is relevant to the question as it addresses the due process requirements and the necessity of a hearing following an ex parte removal.

[In re K.L.R., 162 S.W.3d 291 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

Generally, while a suit for modification is pending, the court may not render a temporary order that has the effect of changing the designation of the person who has the exclusive right to determine the primary residence of the child under the final order. TEX. FAM.CODE ANN. § 156.006 (Vernon 2002). However, the court may enter such an order if the child's present living environment may endanger the child's physical health or significantly impair the child's emotional development. Id. The court may also make a temporary order for the safety and welfare of the child, including an order for the temporary conservatorship of the child. TEX. FAM.CODE ANN. § 105.001(a)(1) (Vernon 2002). If the TRO or temporary order excludes a parent from possession of or access to a child, it may not be rendered except on a verified pleading or an affidavit in accordance with the Texas Rules of Civil Procedure. TEX. FAM.CODE ANN. § 105.001(c)(3) (Vernon 2002). Certain temporary orders may not be rendered except after notice and a hearing, including orders (1) for the temporary conservatorship of the child, (2) for the temporary support of the child, or (3) for payment of reasonable attorney's fees and expenses. TEX. FAM.CODE ANN. § 105.001(a), (b) (Vernon Supp.2004-2005).

Summary

Conditions under which a court may issue temporary orders affecting conservatorship and access to children. It emphasizes that such orders should not be made without notice and a hearing unless there is a verified pleading or affidavit indicating a risk to the child's health or emotional development. This directly relates to the question of whether due process was violated in the father's case, as it suggests that any temporary order excluding a parent from access should be based on verified concerns and follow procedural requirements.

[In re S.A.P., 169 S.W.3d 685 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

Due process and other alleged constitutional violations also must be raised in the trial court for them to be preserved for appellate review. In re L.M.I., 119 S.W.3d 707, 710-11 (Tex.2003); In re K.A.S., 131 S.W.3d 215, 230-31 (Tex.App.-Fort Worth 2004, pet. denied); see also B.L.D., 113 S.W.3d at 349-55 (discussing preservation of error in termination cases).

Summary

If such issues are not raised at the trial court level, they may not be considered on appeal.

[In re Interest of J.W., 645 S.W.3d 726 \(Tex. 2022\)](#)

Texas Supreme Court

Extract

In that case, we held that due process requires appellate review of a challenged finding under Section 161.001(b)(1)(D) or (E), even if sufficient evidence supports a different predicate termination ground, because of the potential consequences of a Subsection (D) or (E) finding with respect to parental rights to a different child. Id. at 235 ; see TEX. FAM. CODE § 161.001(b)(1)(M), (b)(2) (providing for termination of parental rights if the court finds by clear and convincing evidence that (1) the parent's rights to another child were terminated based on a finding under Subsection (D) or (E) and (2) termination is in the child's best interest).

Summary

The passage highlights the importance of due process in cases involving the termination of parental rights, specifically under Texas Family Code Section 161.001(b)(1)(D) or (E). It emphasizes that due process requires appellate review of such findings due to their potential consequences on parental rights. This is relevant to the question as it underscores the necessity of due process, including evidentiary hearings and findings of fact, in proceedings that affect parental rights.

[Tex. Fam. Code § 262.201 Tex. Fam. Code § 262.201 Full Adversary Hearing; Findings of the Court](#)

Extract

In a suit filed under Section FAMILY CODE 262.101 or FAMILY CODE 262.105, unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian

entitled to possession and the temporary order, if any, has been dissolved, a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity, unless the court grants an extension under Subsection (e) or (e-1).

Summary

The Texas Family Code mandates a full adversary hearing to be held within 14 days after a child is taken into possession by a governmental entity, unless an extension is granted. This requirement is designed to ensure due process by providing an opportunity for the parent or guardian to be heard and to contest the removal. The passage directly addresses the procedural requirements that were allegedly violated in the question, highlighting the necessity of a timely hearing to protect parental rights.

[40 Tex. Admin. Code § 700.1102 40 Tex. Admin. Code § 700.1102 Informing and Notifying Parents and Children](#)

Extract

To protect the legal rights of parents and children, the Texas Department of Protective and Regulatory Services (PRS) must take the following actions when providing court-related services. PRS must inform the parents and children of every planned court action. Whenever possible, PRS must notify the parents and children of a planned court action before the action takes place, unless PRS suspects that the parents may try to move to avoid the court action. If PRS suspects that the parents may try to move to avoid a court action, PRS may take one of the following actions before informing the parents of the planned court action: (A) PRS may request a temporary restraining order to prohibit the parents from removing the child from the state before PRS completes an investigation of child abuse or neglect; or (B) PRS may take possession of the child under the authority of a statute or a court order. PRS must inform the parents of their right to be represented by an attorney at every court hearing. PRS must inform the parents of their right to attend every court hearing. When PRS takes possession of a child without a court order or pursuant to an emergency order, PRS must give the parents or legal guardian written notice of the removal.

Summary

The Texas Department of Protective and Regulatory Services (PRS) has specific obligations to inform parents and children of planned court actions, their rights to representation, and attendance at hearings. In cases where PRS takes possession of a child without a court order or pursuant to an emergency order, they must provide written notice to the parents or legal guardian. This passage highlights the procedural requirements that PRS must follow to protect the legal rights of parents and children, which is relevant to the question of whether due process was followed in the initial removal from the home.

[Tex. Fam. Code § 262.102 Tex. Fam. Code § 262.102 Emergency Order Authorizing Possession of Child](#)

Extract

Before a court may, without prior notice and a hearing, issue a temporary order for the conservatorship of a child under Section FAMILY CODE 105.001(a) or a temporary restraining order or attachment of a child authorizing a governmental entity to take possession of a child in a suit brought by a governmental entity, the court must find that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse; continuation in the home would be contrary to the child's welfare; there is no time, consistent with the physical health or safety of the child and the nature of the emergency, for a full adversary hearing under Subchapter C; the child would not be adequately protected in the child's home with an order for the removal of the alleged perpetrator under Section FAMILY CODE 262.1015 or FAMILY CODE 262.1016 or a protective order issued under Title 4; placing the child with a relative or designated caregiver or with a caregiver under a parental child safety placement agreement authorized by Subchapter L, Chapter 264: (A) was offered but refused; (B) was not possible because there was no time, consistent with the physical health or safety of the child and the nature of the emergency, to conduct the caregiver evaluation; or (C) would pose an immediate danger to the physical health or safety of the child; and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal of the child.

Summary

Legal requirements that must be met for such an emergency order, which are relevant to the question of whether due process was violated in the father's case.

[Tex. Fam. Code § 156.006 Tex. Fam. Code § 156.006 Temporary Orders](#)

Extract

While a suit for modification is pending, the court may not render a temporary order that has the effect of creating a designation, or changing the designation, of the person who has the exclusive right to designate the primary residence of the child, or the effect of creating a geographic area, or changing or eliminating the geographic area, within which a conservator must maintain the child's primary residence, under the final order unless the temporary order is in the best interest of the child and: the order is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development; the person designated in the final order has voluntarily relinquished the primary care

and possession of the child for more than six months; or the child is 12 years of age or older and has expressed to the court in chambers as provided by Section FAMILY CODE 153.009 the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child.

Summary

The Texas Family Code § 156.006 outlines specific conditions under which a court may issue temporary orders that affect the designation of a child's primary residence. These conditions include the necessity for the child's best interest, significant impairment to the child's health or development, voluntary relinquishment of care by the designated person, or the child's expressed preference if they are 12 years or older. This passage is relevant to the question as it provides the legal framework for when and how temporary orders can be issued, which is central to the father's claim of due process violation.

[Tex. Fam. Code § 263.401 Tex. Fam. Code § 263.401 Dismissal After One Year; New Trials; Extension](#)

Extract

Unless the court has commenced the trial on the merits or granted an extension under Subsection (b) or (b-1), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated and the suit is automatically dismissed without a court order.

Summary

The passage from Tex. Fam. Code § 263.401 outlines the conditions under which a court's jurisdiction over a suit affecting the parent-child relationship is terminated. Specifically, it states that if a trial on the merits has not commenced or an extension has not been granted, the court's jurisdiction is terminated, and the suit is automatically dismissed after one year. This provision is relevant to the question as it addresses the procedural requirements and timelines for cases involving the termination of parental rights or the appointment of a conservator, which are central to the father's claims of due process violations and lack of judicial justification.

[Tex. Fam. Code § 262.101 Tex. Fam. Code § 262.101 Filing Petition Before Taking Possession of Child](#)

Extract

An original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse; continuation in the home would be contrary to the child's welfare; there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; the child would not be adequately protected in the child's home with an order for the removal of the alleged perpetrator under Section FAMILY CODE 262.1015 or FAMILY CODE 262.1016 or a protective order issued under Title 4; placing the child with a relative or designated caregiver or with a caregiver under a parental child safety placement agreement authorized by Subchapter L, Chapter 264: (A) was offered but refused; (B) was not possible because there was no time, consistent with the physical health or safety of the child and the nature of the emergency, to conduct the caregiver evaluation; or (C) would pose an immediate danger to the physical health or safety of the child; and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.

Summary

The Texas Family Code requires an affidavit with specific criteria to be met before a child can be removed from their home without prior notice and a hearing. This includes demonstrating immediate danger to the child and that reasonable efforts were made to prevent removal. The passage directly addresses the procedural requirements for such actions, which are relevant to the question of whether due process was followed in the father's case.

[Tex. Fam. Code § 201.007 Tex. Fam. Code § 201.007 Powers of Associate Judge](#)

Extract

without prejudice to the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 and subject to Subsection (c), render and sign: (A) a final order agreed to in writing as to both form and substance by all parties; (B) a final default order; (C) a temporary order; or (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;

Summary

An associate judge has the authority to render and sign temporary orders, among other types of orders, without prejudice to the right to a de novo hearing. This means that while an associate judge can issue temporary orders, parties still have the right to request a de novo hearing before the referring court. This is relevant to the question as it highlights the procedural rights available to parties, which may have been violated in the father's case if he was not given the opportunity for such a hearing.

[Tex. Fam. Code § 109.001 Tex. Fam. Code § 109.001 Temporary Orders During Pendency of Appeal](#)

Extract

In a suit affecting the parent-child relationship, on the motion of any party or on the court's own motion and after notice and hearing, the court may make any order necessary to preserve and protect the safety and welfare of the child during the pendency of an appeal as the court may deem necessary and equitable.

Summary

The passage from Tex. Fam. Code § 109.001 outlines the court's authority to make temporary orders to protect the safety and welfare of the child during the pendency of an appeal. It emphasizes that such orders can be made after notice and hearing, which implies that due process should be followed. This is relevant to the question as it highlights the requirement for notice and hearing before making orders that affect parental rights, which seems to have been violated in the father's case.

[Tex. Fam. Code § 262.105 Tex. Fam. Code § 262.105 Filing Petition After Taking Possession of Child In Emergency](#)

Extract

When a child is taken into possession without a court order, the person taking the child into possession, without unnecessary delay, shall: file a suit affecting the parent-child relationship; request the court to appoint an attorney ad litem for the child; and request an initial hearing to be held by no later than the first business day after the date the child is taken into possession.

Summary

When a child is taken into possession without a court order, there are specific procedural requirements that must be followed, including filing a

suit affecting the parent-child relationship, appointing an attorney ad litem for the child, and requesting an initial hearing by the next business day. This is relevant to the question as it highlights the procedural safeguards that should be in place to protect parental rights and ensure due process, which appear to have been violated in the scenario described.

[Tex. Fam. Code § 105.001 Tex. Fam. Code § 105.001 Temporary Orders Before Final Order](#)

Extract

Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. Except as provided by Subsection (h), an order may not be rendered under Subsection (a), , or except after notice and a hearing.

Summary

The passage from Tex. Fam. Code § 105.001 outlines the requirements for temporary orders in family law cases. It specifies that, except in certain circumstances, temporary restraining orders and temporary injunctions should not be granted without notice and a hearing. This suggests that the initial removal from the home without an evidentiary hearing or opportunity to be heard may have violated the Texas Family Code requirements for temporary orders, as the passage indicates that such orders generally require notice and a hearing unless specific exceptions apply.

[Tex. Fam. Code § 201.015 Tex. Fam. Code § 201.015 De Novo Hearing Before Referring Court](#)

Extract

A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the third working day after the date the party receives notice of: the substance of the associate judge's report as provided by Section FAMILY CODE 201.011; or the rendering of the temporary order, if the request concerns a temporary order rendered by an associate judge under Section FAMILY CODE 201.007(a)(C).

Summary

Timeline and process for requesting such a hearing, which is crucial for ensuring due process and the opportunity to be heard.

[Ineffective assistance of counsel in parental-rights termination cases: the challenge for appellate courts.](#)

Journal of Appellate Practice and Process - University of Arizona - Calkins, Susan - 2004-09-22

Extract

In both, the court found that counsel was inadequate. In State ex rel. State Office for Services to Children & Families v. Thomas (In re Stephens), (210) the father failed to appear for the termination hearing. He was in a residential treatment center at the time of the hearing, and his attorney did not obtain a subpoena for his attendance or notify personnel at the center about the need to have the father at the hearing. (211) Although counsel was present at the hearing, he made no opening statement except to say that his client could be a good father and was in treatment, and he also made no closing argument. He did not call witnesses, offer any exhibits, or cross-examine most of the witnesses. (212) Counsel also admitted that he was not prepared for trial, in part, because of the father's absence. (213) The court concluded that the attorney's lack of preparation and failure to advocate any theory for the father rendered his performance inadequate. (214)

Summary

The passage discusses a case where the father's counsel was found inadequate due to lack of preparation and failure to advocate for the father, which resulted in the father's absence from a termination hearing. This is relevant to the question as it highlights issues of inadequate legal representation and due process violations, which are central to the father's claims in the question. The passage provides insight into how courts may view inadequate representation and its impact on due process rights.

This memo was compiled by Vincent AI based on vLex materials available as of August 18, 2025. [View full answer on vLex](#)