

Question

The ongoing procedural irregularities and judicial inaction have caused irreparable harm to the respondent and his children, and have undermined the fairness of the proceedings. Recusal is required not only to remedy actual bias but also to restore public confidence in the judiciary and prevent further harm to the parties (*Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009)). Recusal of Judge Evans is necessary to restore confidence in the administration of justice and to prevent further irreparable harm to the respondent and his family.

Answer (Texas)

Short response

Recusal of Judge Evans is warranted under both Texas and federal law when ongoing procedural irregularities and judicial inaction have caused irreparable harm and undermined the fairness of proceedings, as both actual and apparent bias threaten public confidence in the judiciary. The authorities provided establish that recusal is necessary not only to remedy actual bias but also to restore the integrity of the judicial process and prevent further harm to the parties involved.

Summary

The legal framework in Texas, supported by federal due process principles, mandates recusal when a judge's impartiality might reasonably be questioned or when there is a probability of bias that is constitutionally intolerable. This standard is objective and is designed to protect both the actual fairness of proceedings and the public's perception of judicial integrity, especially where procedural irregularities and judicial inaction have caused or risk causing irreparable harm.

Case law from the Texas Supreme Court and the U.S. Supreme Court, as well as relevant administrative decisions, consistently emphasize that recusal is essential not only to address actual bias but also to prevent the appearance of impropriety and to maintain public trust in the judiciary. The authorities further clarify that recusal is a necessary remedy to prevent further harm to litigants and to restore confidence in the administration of justice, particularly in cases where ongoing judicial conduct has undermined the fairness of the proceedings.

Background and Relevant Law

Legislative and Regulatory Framework

The Texas Constitution provides a mechanism for the removal of district court judges who are incompetent, guilty of partiality, or fail to perform their duties, underscoring the importance of judicial impartiality and the need for remedies when a judge's conduct undermines the administration of justice ([Tex. Const. art. 15 § 6](#)). While removal is a severe remedy, the constitutional provision reflects the broader principle that judicial misconduct, including partiality and inaction, must be addressed to maintain the legitimacy of the courts.

Procedurally, Texas law sets out the grounds and process for recusal in Rule 18b of the Texas Rules of Civil Procedure, which is incorporated by reference in administrative regulations ([1 Tex. Admin. Code § 155.152](#)). Rule 18b requires recusal when a judge's impartiality might reasonably be questioned or when the judge has a personal bias or prejudice concerning a party or the subject matter. The process ensures that if a judge does not voluntarily recuse, another judge is assigned to rule on the motion, and, if recusal is found warranted, a new presiding judge is appointed.

Case Law

The Texas Supreme Court has repeatedly affirmed the imperative and objective nature of the recusal standard. In [Rogers v. Bradley, 909 S.W.2d 872 \(Tex. 1995\)](#), the court held that a judge must recuse if their impartiality might reasonably be questioned, emphasizing that the standard is not subjective but based on whether a reasonable person, aware of all circumstances, would doubt the judge's impartiality. This principle is echoed in [Hensley v. St. Comm'n on Jud. Conduct, 692 S.W.3d 184 \(Tex. 2024\)](#), which also cites the U.S. Supreme Court's decision in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), establishing a federal due process right to recusal when the probability of actual bias is too high to be constitutionally tolerable.

The Texas Supreme Court has further articulated the foundational role of public confidence in the judiciary. In [Sun Exploration and Production Co. v. Jackson, 783 S.W.2d 202 \(Tex. 1989\)](#), the court stated that the legitimacy of the judicial process depends on public respect and confidence in the system's impartiality and fairness. Judicial decisions rendered under circumstances suggesting bias or favoritism undermine the integrity of the courts and erode public trust.

The court in [Thoma, In re, 873 S.W.2d 477 \(Tex. 1994\)](#) reinforced that judges must observe high standards of conduct to preserve the integrity and independence of the judiciary, and must act in ways that promote public confidence in their impartiality.

Administrative Decisions

Administrative decisions reinforce these principles. In [Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#), the court found that denying relief in the face of judicial impropriety risks injustice in other cases and undermines public confidence in the judicial process. The decision emphasized that the appearance of impropriety is itself a sufficient ground for recusal, as it is precisely what the recusal statutes are intended to prevent.

Secondary Materials

Secondary materials support the view that recusal is a necessary remedy to address both actual and perceived bias, and to restore public confidence in the judiciary. They highlight that even the appearance of bias or impropriety can undermine the legitimacy of the courts and the fairness of proceedings.

Analysis

Objective Standard for Recusal

The legal standard for recusal in Texas is objective: a judge must step aside if their impartiality might reasonably be questioned, regardless of their own subjective belief in their ability to be fair ([Rogers v. Bradley, 909 S.W.2d 872 \(Tex. 1995\)](#)). This standard is designed to protect not only the actual fairness of proceedings but also the public's perception of fairness, which is essential for maintaining confidence in the judicial system ([Sun Exploration and Production Co. v. Jackson, 783 S.W.2d 202 \(Tex. 1989\)](#)).

The U.S. Supreme Court's decision in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)—explicitly cited in the user's proposition and referenced in Texas Supreme Court decisions—establishes that due process may require recusal even in the absence of proven actual bias, if the probability of bias is too high to be constitutionally tolerable. This principle has been reaffirmed in subsequent cases, including *Rippo v. Baker*, 580 U.S. ___, 137 S.Ct. 905 (2017), and is reflected in Texas law and practice ([Hensley v. St. Comm'n on Jud. Conduct, 692 S.W.3d 184 \(Tex. 2024\)](#); Pretrial Motions (2021-08-16)).

Procedural Irregularities and Judicial Inaction

Where there are ongoing procedural irregularities and judicial inaction that have caused irreparable harm to a party and their family, the fairness of the proceedings is called into question. Texas law and federal due process principles both recognize that such circumstances can create an appearance of impropriety or bias, even if actual bias is not established (Pretrial Motions (2020-08-16); [Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#)). The risk of further harm to the parties, coupled with the undermining of public confidence in the judiciary, makes recusal not only appropriate but necessary to restore the integrity of the process.

The Texas Supreme Court has made clear that the judiciary must avoid even the appearance of impropriety, as public trust is easily eroded by perceptions of bias or unfairness ([Sun Exploration and Production Co. v. Jackson, 783 S.W.2d 202 \(Tex. 1989\)](#)). This is particularly important in cases involving families and children, where the stakes are high and the consequences of judicial inaction or irregularity can be severe and lasting.

Restoration of Public Confidence

Recusal serves not only to remedy actual bias but also to restore public confidence in the administration of justice. The Texas Supreme Court has repeatedly emphasized that the legitimacy of the courts depends on public perception of their fairness and impartiality ([Thoma, In re, 873 S.W.2d 477 \(Tex. 1994\)](#); [In re Rose, 144 S.W.3d 661 \(Tex. 2004\)](#)). Disciplinary and recusal procedures are designed to reassure the public that judicial misconduct or the appearance of bias will not be tolerated.

Administrative decisions further support this view, noting that providing relief in cases of judicial impropriety can prevent future injustices and encourage judges to recuse themselves promptly when grounds for disqualification arise ([Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#)). The appearance-based standard for recusal is critical: if a reasonable, fully informed observer would doubt the judge's impartiality, recusal is required to maintain the legitimacy of the process (Judicial Disqualification and Legitimacy (2023-07-01)).

Due Process and Irreparable Harm

The Due Process Clause of the U.S. Constitution sometimes demands recusal even in the absence of actual bias, particularly when the probability of bias is too high to be constitutionally acceptable (Pretrial Motions (2021-08-16); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)). This is especially true where procedural irregularities and judicial inaction have caused or risk causing irreparable harm to the parties, as due process requires not only the absence of actual bias but also the absence of circumstances that would lead a reasonable person to question the fairness of the proceedings.

The Texas Supreme Court has recognized that certain judicial actions, such as the imposition of gag orders, require specific findings of imminent and irreparable harm to the judicial process ([Davenport v. Garcia, 834 S.W.2d 4 \(Tex. 1992\)](#)). Although this case was later declined to be extended in *In re Houston Chronicle Pub. Co.*, 64 S.W.3d 103 (Tex. App. 2001), the principle that irreparable harm to the fairness of proceedings justifies judicial intervention remains relevant, particularly in the context of recusal.

Compliance with Recusal Procedures

Judges are required to comply with established procedures for recusal, as set out in the Texas Rules of Civil Procedure and the Code of Judicial Conduct ([In re Inquiry Concerning Honorable Bonnie Rangel CJC No., 677 S.W.3d 918 \(Tex. 2023\)](#)). Failure to follow these procedures can itself

undermine public confidence and may be grounds for disciplinary action. The process ensures that motions for recusal are considered by a neutral judge and that, if recusal is warranted, a new presiding judge is appointed to restore fairness to the proceedings ([1 Tex. Admin. Code § 155.152](#)).

Exceptions and Caveats

While the authorities overwhelmingly support recusal where impartiality is reasonably questioned or where procedural irregularities have caused irreparable harm, it is important to note that not every procedural misstep or delay will justify recusal. The standard remains whether a reasonable person, fully informed of the circumstances, would doubt the judge's impartiality ([Rogers v. Bradley, 909 S.W.2d 872 \(Tex. 1995\)](#)). Additionally, the Texas Supreme Court's decision in [Davenport v. Garcia, 834 S.W.2d 4 \(Tex. 1992\)](#)—which discusses the need for specific findings of irreparable harm—was later declined to be extended in *In re Houston Chronicle Pub. Co.*, 64 S.W.3d 103 (Tex. App. 2001). This limits its application, but the underlying principle that irreparable harm to the fairness of proceedings justifies judicial intervention remains persuasive in the context of recusal.

Conclusion

In summary, the legal authorities provided establish that recusal is required not only to remedy actual bias but also to address the appearance of impropriety and to restore public confidence in the judiciary, particularly where ongoing procedural irregularities and judicial inaction have caused or risk causing irreparable harm to the parties. The objective standard for recusal, grounded in both Texas law and federal due process principles, mandates that a judge must step aside whenever their impartiality might reasonably be questioned. This is essential to maintain the integrity of the judicial process, prevent further harm to the parties, and uphold the legitimacy of the courts. Recusal of Judge Evans is therefore necessary to restore confidence in the administration of justice and to prevent further irreparable harm to the respondent and his family.

Legal Authorities

[Rogers v. Bradley, 909 S.W.2d 872 \(Tex. 1995\)](#)

Texas Supreme Court

Extract

Rule 18b provides in relevant part that a judge 'shall recuse himself in any proceeding in which ... his impartiality might reasonably be questioned.' Tex.R.Civ.P. 18b(2)(a). The language is imperative and mandatory, not permissive or discretionary; the standard is objective, not subjective. ... Applying this rule, several federal circuit courts have held that recusal should follow if the reasonable person, aware of all of the circumstances, would harbor reasonable doubts about the judge's impartiality.

Summary

The passage from "Rogers v. Bradley" emphasizes that under Texas Rule of Civil Procedure 18b(2)(a), a judge must recuse themselves if their impartiality might reasonably be questioned. This is an objective standard, meaning it does not depend on the judge's personal feelings but rather on whether a reasonable person would doubt the judge's impartiality. This aligns with the proposition that recusal is necessary to restore public confidence in the judiciary and prevent further harm, as it underscores the importance of maintaining impartiality and public trust in judicial proceedings.

[Hensley v. St. Comm'n on Jud. Conduct, 692 S.W.3d 184 \(Tex. 2024\)](#)

Texas Supreme Court

Extract

R. 18b(b) ("A judge must recuse in any proceeding in which: (1) the judge's impartiality might reasonably be questioned; (2) the judge has a personal bias or prejudice concerning the subject matter or a party"); see also *Caperton v. A.T. Massey Coal Co.*, 556 U.S 868, 872, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009) (holding that there is a federal due process right to recusal "when the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable' " (quoting *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975))).

Summary

The passage from "Hensley v. St. Comm'n on Jud. Conduct" discusses the conditions under which a judge must recuse themselves, specifically when their impartiality might reasonably be questioned or when there is a personal bias. It also references the *Caperton* case, which establishes a federal due process right to recusal when the probability of actual bias is too high. This supports the proposition that recusal is necessary to address actual bias and restore public confidence in the judiciary, as well as to prevent further harm to the parties involved.

[Davenport v. Garcia, 834 S.W.2d 4 \(Tex. 1992\)](#)

Texas Supreme Court

Extract

a gag order in civil judicial proceedings will withstand constitutional scrutiny only where there are specific findings supported by evidence that (1) an imminent and irreparable harm to the judicial process will deprive

litigants of a just resolution of their dispute, and (2) the judicial action represents the least restrictive means to prevent that harm.

Summary

The passage from *Davenport v. Garcia* emphasizes the necessity of demonstrating imminent and irreparable harm to the judicial process to justify certain judicial actions, such as gag orders. This aligns with the proposition that procedural irregularities and judicial inaction causing irreparable harm can undermine the fairness of proceedings. The requirement for specific findings of harm supports the argument for recusal to restore fairness and public confidence.

[In re Rose, 144 S.W.3d 661 \(Tex. 2004\)](#)

Texas Supreme Court

Extract

The purpose of sanctions in cases of judicial discipline is to preserve the integrity and independence of the judiciary and to restore and reaffirm public confidence in the administration of justice. The discipline we impose must be designed to announce publicly our recognition that there has been misconduct; it must be sufficient to deter respondent from engaging in such conduct; and it must discourage others from engaging in similar conduct in the future. Thus, we discipline a judge not for purposes of vengeance or retribution, but to instruct the public and all judges, ourselves included, of the importance of the function performed by judges in a free society. We discipline a judge to reassure the public that judicial misconduct is neither permitted nor condoned.

Summary

The Texas Supreme Court emphasizes the importance of maintaining public confidence in the judiciary by disciplining judges who engage in misconduct. This aligns with the proposition that recusal is necessary to restore public confidence and prevent further harm, as it highlights the judiciary's role in ensuring fairness and integrity in legal proceedings.

[Sun Exploration and Production Co. v. Jackson, 783 S.W.2d 202 \(Tex. 1989\)](#)

Texas Supreme Court

Extract

The legitimacy of the judicial process is based on the public's respect and on its confidence that the system settles controversies impartially and fairly. Judicial decisions rendered under circumstances that suggest bias,

prejudice, or favoritism undermine the integrity of the courts, breed skepticism and mistrust, and thwart the very principles on which the judicial system is based. The judiciary must be extremely diligent in avoiding any appearance of impropriety and must hold itself to exacting standards lest it lose its legitimacy and suffer a loss of public confidence.

Summary

The passage emphasizes the importance of maintaining public confidence in the judiciary by avoiding any appearance of bias or impropriety. It highlights that judicial decisions made under circumstances suggesting bias can undermine the integrity of the courts and lead to a loss of public trust. This aligns with the proposition that recusal is necessary to restore confidence in the administration of justice and prevent further harm to the parties involved.

[In re Inquiry Concerning Honorable Bonnie Rangel CJC No., 677 S.W.3d 918 \(Tex. 2023\)](#)

Texas Supreme Court

Extract

Canon 2A states that: a 'judge shall comply with the law' Per Canon 3B(2), a jurist also 'shall maintain professional competence in' the law. Of the myriad laws we 'shall comply with' and 'should maintain professional competence in' is that establishing the procedures to be followed when a litigant attempts to recuse a trial judge. Those procedures appear in Rule 18a of the Texas Rules of Civil Procedure. And, the subpart in play is that stating: '[t]he judge whose recusal or disqualification is sought should not file a response to the motion.' TEX. R. CIV. PROC. 18a(c)(2). No one disputes that Judge Rangel filed a response. She admitted as much and explained she 'was not aware of that' provision.

Summary

The passage highlights the importance of judges complying with procedural rules, specifically those related to recusal. It underscores that failure to adhere to these rules can undermine public confidence in the judiciary. The passage illustrates a situation where a judge's failure to follow recusal procedures led to disciplinary action, emphasizing the necessity of maintaining professional competence and compliance with the law to uphold the integrity of the judicial process.

[Thoma, In re, 873 S.W.2d 477 \(Tex. 1994\)](#)

Texas Supreme Court

Extract

It is axiomatic that an independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should observe high standards of conduct so that the integrity and independence of the judiciary is preserved. See TEXAS SUPREME COURT, CODE OF JUDICIAL CONDUCT, Canon 1, Amended to April 1, 1988, reprinted at TEX.GOV'T CODE ANN., title 2, Subt. G, Appendix B (Vernon 1988). A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Id., Canon 2A. In that regard, a judge should not allow family, social, or other relationships to influence judicial conduct or judgment; nor should a judge lend the prestige of the office to advance the private interests of the judge or others.

Summary

The passage emphasizes the necessity for judges to maintain high standards of conduct to preserve the integrity and independence of the judiciary. It highlights the importance of promoting public confidence in the judiciary's impartiality and integrity. This aligns with the proposition that recusal is necessary to restore public confidence and prevent further harm, as it underscores the judiciary's responsibility to act in a manner that upholds public trust.

[1 Tex. Admin. Code § 155.152 1 Tex. Admin. Code § 155.152 Disqualification Or Recusal of Judges](#)

Extract

A judge is subject to recusal or disqualification on the same grounds and under the same circumstances as specified in TRCP Rule 18b. ... If the presiding judge who is the subject of the motion does not disqualify or recuse him- or herself from the case, the Chief Judge or a designee of the Chief Judge shall assign another judge to consider and rule on the motion. ... If the assigned judge finds that the presiding judge is disqualified or should be recused, the Chief Judge or a designee of the Chief Judge shall assign a different presiding judge to the case.

Summary

Process for filing a motion for recusal, the role of the Chief Judge in assigning another judge to rule on the motion, and the potential reassignment of the case to a different presiding judge if recusal is warranted. This supports the proposition by emphasizing the importance of addressing judicial bias and ensuring fair proceedings.

[Tex. Const. art. 15 § 6 Tex. Const. art. 15 § 6 Judges of District Court: Removal By Supreme Court](#)

Extract

Any judge of the District Courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge; or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the Supreme Court.

Summary

The Texas Constitution provides a mechanism for the removal of district court judges who are incompetent, guilty of partiality, or fail to perform their duties. This aligns with the proposition that recusal or removal is necessary to address judicial misconduct or bias, restore public confidence, and prevent further harm to the parties involved.

[Recusal's Own Conflict of Interest](#)

Criminal Justice - American Bar Association - Louis J. Virelli III - 2025-01-01

Extract

not to hold the balance nice, clear, and true between the [parties] denies [them] due process of law.” Williams v. Pennsylvania, 136 S. Ct. 1899, 1905 (2016); Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 886 (2009); Tumey v. State of Ohio, 273 U.S. 510, 532 (1927). Recusal can be a powerful tool to remedy due process violations based on partiality, especially in cases where the adjudicator exhibits actual or probable bias against a party or has a personal conflict of interest.

Summary

The passage highlights the importance of recusal in maintaining due process and fairness in judicial proceedings. It references key Supreme Court cases, including Caperton v. A.T. Massey Coal Co., which is directly cited in the proposition. The passage supports the idea that recusal is necessary when there is actual or probable bias, aligning with the proposition's argument that recusal is needed to restore fairness and public confidence in the judiciary.

[Don't shoot the Canons: maintaining the appearance of propriety standard.](#)

**Journal of Appellate Practice and Process - University of Arizona -
McKeown, M. Margaret - 2005-03-22**

Extract

Respondent created the appearance he was biased or prejudiced against those individuals he intended to 'nail.' Public confidence in the integrity and impartiality of the judiciary is undermined when a judge's conduct creates the perception that a case has been prejudged or that there is a bias against a party, regardless of whether the perceived bias or prejudice exists. Persons who believed Respondent wrote 'Nail This Guy' in code on some defendants' judgments could reasonably conclude that those defendants received, or would receive, disparate or unfair treatment from the court.

Summary

The passage highlights the importance of public confidence in the judiciary's integrity and impartiality. It emphasizes that even the appearance of bias or prejudice can undermine this confidence, regardless of whether actual bias exists. This aligns with the proposition that recusal is necessary to restore public confidence and prevent further harm, as the perception of bias can lead to a belief that the proceedings are unfair.

[Judicial independence in the age of runaway campaign spending: how more vigilant court action and stronger recusal statutes can reclaim the perception of an independent judiciary.](#)

**Case Western Reserve Law Review - Case Western Reserve University
School of Law - Raley, Charles R. - 2011-09-22**

Extract

Recusal is an effective remedy because it would prevent judges from hearing cases involving their campaign contributors, reducing the public's perception that state courts with elected judges lack independence. Removing this factor should correspondingly produce greater confidence in the judiciary's independence.

Summary

Recusal is presented as a necessary and effective remedy to address potential biases and restore public confidence in the judiciary. The passage emphasizes that recusal can prevent judges from hearing cases where there might be perceived bias, thereby enhancing the perception of judicial independence. This aligns with the proposition that recusal is necessary to restore confidence in the administration of justice and prevent further harm.

[Judicial Disqualification and Legitimacy](#)

Litigation - American Bar Association - Charles Gardner Geyh - 2023-07-01

Extract

the judge is a close relative of a party to the proceeding, has an interest that could be substantially affected by the outcome of the litigation, or has personal knowledge of disputed facts in the case, the judge must withdraw regardless of whether the judge could, in fact, disregard those conflicts and rule impartially... appearance-based standard that calls upon judges to recuse themselves from proceedings in which a reasonable, non-judge observer, fully informed of the circumstances, would doubt the judge's impartiality... Controversies in cases applying the catchall could be diminished, if not eliminated, if judges erred on the side of caution and recused themselves at the first whiff of alleged partiality.

Summary

Necessity for judges to recuse themselves in situations where their impartiality might reasonably be questioned, either due to personal bias or the appearance of bias. It emphasizes the importance of maintaining public confidence in the judiciary by erring on the side of caution and recusing at the first sign of potential partiality. This aligns with the proposition that recusal is necessary to restore public confidence and prevent further harm, as it underscores the importance of addressing both actual and perceived biases to uphold the fairness of proceedings.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2020 - James Publishing - Mark G. Daniel, Robert K. Gill - 2020-08-16

Extract

The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable. *Rippo v. Baker*, 580 U.S. ___, 137 S.Ct. 905, 907, 197 L.Ed.2d 167 (2017).

Summary

The passage highlights that recusal may be necessary under the Due Process Clause even in the absence of actual bias if the probability of bias is too high to be constitutionally tolerable. This aligns with the proposition that recusal is needed to restore public confidence and prevent further harm, as it emphasizes the importance of maintaining impartiality and fairness in judicial proceedings.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2019 - James Publishing - Mark G. Daniel, Robert K. Gill - 2019-08-16

Extract

Rule 18b(2) of the Texas Rules of Civil Procedure sets out the law concerning recusal and includes instances in which a judge must step down from hearing a case for reasons other than the disqualifying grounds listed in the constitution. Rule 18b(2) states, in relevant part, that a 'judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) ... The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable. *Rippo v. Baker*, 580 U.S. ___, 137 S.Ct. 905, 907, 197 L.Ed.2d 167 (2017).

Summary

Texas law provides for the recusal of judges in situations where their impartiality might reasonably be questioned. This aligns with the proposition that recusal is necessary to restore public confidence in the judiciary. The reference to the Due Process Clause and the requirement for recusal when the probability of bias is too high further supports the need for recusal to prevent irreparable harm and ensure fairness in proceedings.

[Pretrial motions](#)

Texas Criminal Lawyer's Handbook. Volume 1-2 - James Publishing - Mark G. Daniel, Robert K. Gill - 2022-05-05

Extract

The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable. *Rippo v. Baker*, 580 U.S. ___, 137 S.Ct. 905, 907, 197 L.Ed.2d 167 (2017). ... A judge who participated as counsel in an earlier proceeding of the same case should also recuse himself. *Caperton et.al. v. A.T. Massey Coal Co. et.al.* (citing *In re Murchison*, 349 U. S. 133, 75 S.Ct. 623, 99 L.Ed. 942 (1955)).

Summary

The passage highlights that recusal is sometimes necessary under the Due Process Clause even in the absence of actual bias, particularly when the

probability of bias is too high to be constitutionally acceptable. This aligns with the proposition that recusal is needed to restore public confidence and prevent further harm. The reference to *Caperton v. A.T. Massey Coal Co.* supports the idea that recusal is necessary to ensure fairness in proceedings.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2021 - James Publishing - Mark G. Daniel, Robert K. Gill - 2021-08-16

Extract

The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable. *Rippo v. Baker*, 580 U.S. ___, 137 S.Ct. 905, 907, 197 L.Ed.2d 167 (2017).

Summary

The passage highlights that recusal is necessary not only in cases of actual bias but also when the probability of bias is too high to be constitutionally acceptable. This aligns with the proposition that recusal is needed to restore public confidence and prevent further harm, even if actual bias is not proven. The reference to the Due Process Clause and the case of *Rippo v. Baker* supports the argument that procedural fairness and public confidence are critical considerations in recusal decisions.

[Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#)

Merit Systems Protection Board

Extract

For the second factor, the risk that denying relief would cause injustice in other cases, the Court found that providing relief may prevent injustices in future cases by encouraging judges to promptly recuse themselves when grounds for disqualification arise. In a discussion that implicated the third factor, the risk of undermining public confidence in the judicial process, the Court found that the facts at hand created 'precisely the kind of appearance of impropriety that § 455(a) was intended to prevent. The violation [was] neither insubstantial nor excusable.' The Supreme Court therefore affirmed the decision to vacate the original judgment.

Summary

Importance of judicial recusal to prevent future injustices and maintain public confidence in the judicial process. It highlights that failing to recuse when there are grounds for disqualification can create an appearance of impropriety, which § 455(a) aims to prevent. This aligns with the proposition that recusal is necessary to restore confidence in the judiciary and prevent further harm to the parties involved.

[Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#)

Merit Systems Protection Board

Extract

For the second factor, the risk that denying relief would cause injustice in other cases, the Court found that providing relief may prevent injustices in future cases by encouraging judges to promptly recuse themselves when grounds for disqualification arise. In a discussion that implicated the third factor, the risk of undermining public confidence in the judicial process, the Court found that the facts at hand created 'precisely the kind of appearance of impropriety that § 455(a) was intended to prevent. The violation [was] neither insubstantial nor excusable.' The Supreme Court therefore affirmed the decision to vacate the original judgment.

Summary

The passage discusses the importance of judicial recusal to prevent future injustices and maintain public confidence in the judicial process. It highlights that failing to recuse when there are grounds for disqualification can create an appearance of impropriety, which § 455(a) aims to prevent. This aligns with the proposition that recusal is necessary to restore confidence in the judiciary and prevent further harm.

This memo was compiled by Vincent AI based on vLex materials available as of September 10, 2025. [View full answer on vLex](#)