

Question

A district judge holds a hearing on a protective order and orders a father to vacate without any evidence being presented and without an evidentiary hearing. He resets the case to a later date to be heard by his associate judge. No order of referral is ever filed and signed, and there exists no general order of referral or standing orders regarding associate judges. Are all actions taken by this judge void?

Answer (Texas)

Short response

Not all actions taken by the district judge are automatically void under these circumstances; however, the referral of the case to the associate judge without a signed order of referral or standing order is procedurally improper, and any actions taken by the associate judge in the absence of such referral would be unauthorized and potentially void. The district judge's own interim order—issued without evidence or an evidentiary hearing—may be subject to challenge as improper, but is not necessarily void for lack of jurisdiction.

Summary

Texas law requires that a district judge issue either an individual or general order of referral before an associate judge may hear a case; without such an order, the associate judge lacks authority to act, and any actions taken by the associate judge are generally considered void or, at minimum, without legal effect until properly adopted by the referring court. However, the district judge's own actions—such as issuing a temporary order to vacate without an evidentiary hearing—are not automatically void, though they may be reversible or subject to challenge for procedural impropriety.

The absence of a referral order does not retroactively void the district judge's own orders, but it does render any subsequent proceedings before the associate judge unauthorized. Texas courts have consistently held that strict compliance with referral requirements is necessary for associate judges to exercise authority, and failure to comply with these requirements can render their actions void, but not necessarily those of the referring district judge.

Background and Relevant Law

Legislative Framework

The Texas Family Code, specifically section 201.006, governs the referral of cases to associate judges. This provision mandates that a district judge must

render either an individual order of referral for a specific case or a general order of referral specifying the types of cases that may be heard by an associate judge. The statute is clear that such an order is a procedural prerequisite for an associate judge to exercise authority over a matter. The statute does not, however, address the validity of interim actions taken by the district judge prior to referral, nor does it declare such actions void if the referral process is not followed ([Tex. Fam. Code § 201.006](#)).

Case Law

Texas appellate courts have repeatedly addressed the consequences of failing to comply with statutory referral requirements. In [Szanyi v. Gibson, NO. 01-15-00895-CV \(Tex. App. Jun 14, 2016\)](#), the court explained that a judge may refer a case to an associate judge only if an individual or general order of referral is issued, as required by section 201.006. The court also noted that orders signed by a judge sitting for the referring court are valid, and that objections to an associate judge's authority must be timely.

[Omura v. State, 730 S.W.2d 766 \(Tex. App. 1987\)](#) further clarifies that magistrates (and by analogy, associate judges) are agents of the district judge and cannot issue binding orders unless their actions are properly referred and subsequently adopted by the district judge. The court in [Omura](#) held that actions taken by a magistrate without proper referral and adoption are not legally binding and may be void, emphasizing the constitutional requirement that only judges vested with judicial authority may make final determinations.

Similarly, in [Ex parte Stacey, 709 S.W.2d 185 \(Tex. Crim. App. 1986\)](#), the court held that proceedings before a magistrate without a proper order of referral are improper and must be remanded. The court criticized the use of blanket or general orders that do not specify the duties of the magistrate, underscoring the necessity of a valid referral order for the magistrate's actions to be authorized.

Supplementary cases, such as [Mathis v. Graves, NO. 01-18-00789-CV \(Tex. App. Oct 31, 2019\)](#) and [In re Marriage of D.E.L., NO. 14-17-00216-CV \(Tex. App. Feb 12, 2019\)](#), reinforce the principle that associate judges' authority is strictly limited to the scope of the referral, and that actions taken outside this authority are not final or binding unless and until adopted by the referring court.

Analysis

The District Judge's Actions

The district judge in this scenario held a hearing on a protective order and ordered the father to vacate without any evidence being presented and without an evidentiary hearing. While this raises significant due process concerns and may be reversible error, the judge's authority to issue such an order is not dependent on the referral process. The district judge, as the presiding judge of the court, retains jurisdiction over the case and may issue

temporary orders, even if those orders are procedurally flawed or issued without proper evidentiary support.

Texas law distinguishes between void and voidable orders. An order is void only if the court lacked jurisdiction or authority to issue it; otherwise, procedural errors render the order voidable, meaning it is valid unless and until set aside on appeal or by other appropriate means. There is no indication in the provided authorities that a district judge's temporary order, even if issued without evidence or a hearing, is void for lack of jurisdiction. Rather, such an order would be subject to challenge and possible reversal, but not automatically void ([Szanyi v. Gibson, NO. 01-15-00895-CV \(Tex. App. Jun 14, 2016\)](#)).

Referral to the Associate Judge

The critical issue arises with the referral of the case to the associate judge. Section 201.006 of the Texas Family Code requires a written order of referral—either individual or general—before an associate judge may hear a case. In the absence of such an order, the associate judge lacks authority to act. The courts in [Omura v. State, 730 S.W.2d 766 \(Tex. App. 1987\)](#) and [Ex parte Stacey, 709 S.W.2d 185 \(Tex. Crim. App. 1986\)](#) make clear that actions taken by a magistrate or associate judge without proper referral are not legally binding and may be void.

The rationale is that associate judges are not Article V judges and derive their authority solely from the referring court's order. Without a valid referral, any actions taken by the associate judge are unauthorized. The courts have characterized such actions as void, not merely voidable, because the associate judge lacks any jurisdiction over the matter absent a proper referral ([Omura v. State, 730 S.W.2d 766 \(Tex. App. 1987\)](#); [Ex parte Stacey, 709 S.W.2d 185 \(Tex. Crim. App. 1986\)](#)).

Supplementary authority in [Mathis v. Graves, NO. 01-18-00789-CV \(Tex. App. Oct 31, 2019\)](#) suggests that, in some circumstances, actions taken by an associate judge without authority may be treated as recommendations rather than void judgments, and only become effective if and when adopted by the referring court. However, this does not cure the lack of authority to act in the first instance, and the absence of a referral order remains a fundamental defect.

No General or Standing Order

The facts specify that there is no general order of referral or standing order regarding associate judges. This further confirms that the associate judge had no authority to act in the case. Section 201.006 allows for either an individual or general order, but in the absence of both, the statutory prerequisite for referral is unmet. The courts have consistently required strict compliance with these requirements, and failure to do so renders the associate judge's actions void ([Ex parte Stacey, 709 S.W.2d 185 \(Tex. Crim. App. 1986\)](#)).

Adoption by the District Judge

The authorities also make clear that, even if an associate judge acts without authority, the referring district judge may later adopt or sign the associate judge's recommendations, thereby curing the defect and rendering the order effective from the date of adoption ([Mathis v. Graves, NO. 01-18-00789-CV \(Tex. App. Oct 31, 2019\)](#)). However, in the absence of such adoption, the associate judge's actions remain unauthorized and void.

Voidness versus Voidability

It is important to distinguish between actions that are void and those that are voidable. Actions taken by an associate judge without a valid referral are generally considered void because the associate judge lacks jurisdiction. In contrast, actions taken by the district judge, even if procedurally improper, are not void unless the judge lacked subject-matter jurisdiction, which is not the case here. Procedural errors by the district judge render the order voidable, not void ([Szanyi v. Gibson, NO. 01-15-00895-CV \(Tex. App. Jun 14, 2016\)](#)).

Exceptions and Caveats

There may be circumstances in which a party waives objections to the associate judge's authority by failing to timely object, as discussed in [Szanyi v. Gibson, NO. 01-15-00895-CV \(Tex. App. Jun 14, 2016\)](#). However, the facts here indicate that no referral order was ever issued, and there is no indication of waiver. Additionally, if the district judge later adopts the associate judge's recommendations, the defect may be cured, but absent such adoption, the associate judge's actions remain void.

It is also possible that a reviewing court could treat unauthorized actions by an associate judge as recommendations rather than void judgments, as in [Mathis v. Graves, NO. 01-18-00789-CV \(Tex. App. Oct 31, 2019\)](#), but this does not change the fundamental requirement for a valid referral.

Conclusion

In summary, the district judge's own actions—though potentially reversible for lack of evidence or an evidentiary hearing—are not void for lack of jurisdiction. However, the referral of the case to the associate judge without a signed order of referral or standing order is a fundamental procedural defect. Any actions taken by the associate judge in the absence of such referral are unauthorized and void, unless and until adopted by the referring district judge. Texas law requires strict compliance with referral requirements, and failure to do so deprives the associate judge of authority to act. The district judge's interim orders remain valid unless set aside on appeal or by other appropriate means, but the associate judge's actions are void ab initio in the absence of a valid referral.

Legal Authorities

[Mathis v. Graves, NO. 01-18-00789-CV \(Tex. App. Oct 31, 2019\)](#)

Texas Court of Appeals

Extract

But our conclusion that Associate Judge Sydow lacked authority to render a final order does not mean that the April 1, 2016 order is void... the Family Code grants an associate judge authority to, among other things, 'recommend an order to be rendered in a case.' See TEX. FAM. CODE § 201.007(a)(10). Accordingly, we construe the April 1, 2016 order as a recommended order because that is all the associate judge had authority to sign... The associate judge's order did not become the final order of the referring court until it was signed by the referring district court judge, which did not happen until June 25, 2018. See id. § 201.013(b).

Summary

The case holds that where an associate judge lacks authority to render a final order (e.g., absent proper consent or referral), actions taken may be treated as recommendations rather than void judgments, and become effective only when adopted/signed by the referring district judge per Tex. Fam. Code §§ 201.013-.014. Thus, lack of authority does not automatically void all actions; characterization and subsequent adoption control.

[Szanyi v. Gibson, NO. 01-15-00895-CV \(Tex. App. Jun 14, 2016\)](#)

Texas Court of Appeals

Extract

A judge can refer a case to an associate judge if the 'judge of the referring court' issues 'an individual order of referral.' TEX. FAM. CODE ANN. § 201.006(a)... The judge can refer 'any aspect of the suit over which the court has jurisdiction' to the associate judge absent a timely objection. Id. § 201.005(a) ... Judge Ewing, as a county court judge in the same county as the 306th District Court, could 'sign a judgment or order in any of the courts regardless of whether the case is transferred' and that order 'is valid and binding as if the case were pending in the court of the judge who acts in the matter.' TEX. GOV'T CODE ANN. § 74.094 ... Thus, Judge Ewing properly signed the 'individual order of referral' referring the case to Judge Baker." ... "'A party must file an objection to an associate judge hearing a trial on the merits ... not later than the 10th day after the date the party receives notice that the associate judge will hear the trial.' TEX. FAM. CODE ANN. § 201.005 ... Thus, because it was not timely filed, the trial court properly denied his objection.

Summary

The case explains that: (1) referral to an associate judge ordinarily requires an individual order of referral by the judge of the referring court under Fam. Code § 201.006(a); (2) another judge sitting for the referring court may validly sign such orders under Gov't Code § 74.094; and (3) objections to an associate judge must be timely under § 201.005. It does not hold that actions are void absent referral in all circumstances; rather, it shows how referral defects can be cured or how objections can be waived. It also affirms that orders signed by a judge sitting for the court are valid.

[In re Marriage of D.E.L., NO. 14-17-00216-CV \(Tex. App. Feb 12, 2019\)](#)

Texas Court of Appeals

Extract

See Tex. Fam. Code § 201.005(a) (a judge of a court may refer to an associate judge a suit involving the marriage relationship or protection of the family over which the court has jurisdiction, including any matter ancillary to the suit); § 201.006(a) (judge of the referring court shall render an individual order of referral or a general order of referral specifying the class and types of cases to be heard by the associate judge)." ... "Husband argues that the associate judge who ruled on Wife's motion to reconsider lacked authority to do so, and the resulting order granting reconsideration is thus void." ... "Judge David Sydow, an associate judge, held the resumed hearing and signed the order granting Wife's motion to reconsider. Judge Lombardino then signed the final decree of divorce, which incorporated the relief granted in the order on Wife's motion to reconsider. On appeal, Husband argues that because there is no written order assigning the case to an associate judge, Judge Sydow was not authorized to rule on the motion to reconsider.

Summary

The passage confirms that Texas Family Code requires an individual or general order of referral specifying cases an associate judge may hear. It also shows litigants have argued that orders by an associate judge without a written referral are void. It does not, however, decide whether all actions are void; nor does it address whether a district judge's temporary orders without evidence are void. It indicates the legal standard for referral and sets up the voidness argument but does not resolve the precise outcome in this case or in protective-order contexts.

[Ex parte Stacey, 709 S.W.2d 185 \(Tex. Crim. App. 1986\)](#)

Texas Court of Criminal Appeals

Extract

There was no hearing before the district judge. Since there is no order of referral of the case by the district judge to a duly appointed magistrate as required under Article 1918c, § 4(c), supra, this cause must be remanded to the trial court." ... "'(c) To refer a case to a magistrate, the judge shall issue an order of referral specifying the duties of the magistrate.'" ... "In my opinion it is clear that the Legislature never intended that one general all encompassing order of referral would suffice to refer all cases in district court, past or present, without designation as to style or number, to some unnamed magistrate, with authority to act in all permissible statutory proceedings, whether applicable or not.

Summary

The case holds that when a matter is handled by a magistrate/associate judge without a proper order of referral from the district judge as required by statute, the proceedings are improper and must be remanded. It also criticizes reliance on blanket/general orders and underscores that an order of referral must exist and specify duties. This supports the proposition that actions by an associate judge taken without a valid referral are unauthorized. The passage does not directly address family-law protective orders or whether the district judge's own initial actions (e.g., issuing a vacate order without evidence) are void versus voidable, but it is directly relevant to the validity of actions by an associate judge absent a referral.

[Davis v. State, 928 S.W.2d 289 \(Tex. App. 1996\)](#)

Texas Court of Appeals

Extract

To refer 'one or more cases to a magistrate, a judge must issue an order of referral specifying the magistrate's duties.' Id. § 54.657(a). A criminal law magistrate is not a district court judge and possesses no standing jurisdiction to hear cases but instead must obtain jurisdiction by virtue of a referral order from the district court. Id. § 54.657. ... The record affirmatively shows that the order of referral to the magistrate was not signed until March 26, 1992, two days after Davis's plea hearing. ... [W]e find persuasive Davis's argument that a referral order signed after the magistrate has acted is not effective to confer retroactive jurisdiction. ... *Kelly v. State*, 686 S.W.2d 742, 744 (Tex.App.--Austin 1985), aff'd, 724 S.W.2d 42 (1987) (general order of referral to the magistrate was valid when 'entered prior to the referral of Kelly's case').

Summary

The case holds that magistrates (not district judges) lack inherent jurisdiction and must have a written referral order specifying duties; a

referral signed after the magistrate acts does not retroactively confer jurisdiction. It also recognizes general referral orders are permissible if entered before the case is referred. While the case is criminal and specific to Tarrant County magistrates, the principle that a subordinate judicial officer's authority depends on a valid, prior referral order is applicable by analogy to Texas associate judges in civil/family matters, suggesting actions by an associate judge without any referral order (and no standing/general order) are unauthorized.

[Omura v. State, 730 S.W.2d 766 \(Tex. App. 1987\)](#)

Texas Court of Appeals

Extract

No act of the magistrate is legally binding unless and until the magistrate's actions are adopted by the referring court. ... Magistrates are not judges, but are merely agents of judges appointed to assist the district judges of Dallas County in certain limited matters. ... It is clear from the wording of the act that it is mandatory that the district judge review the actions taken by the magistrate. ... Only after a careful review of the record and any exhibits is the district judge in a position to 'modify, correct, reject, reverse, or recommit for further information any action taken by the magistrate.' ... I would hold that, as applied to appellant, section 54.312(b) of the Dallas Magistrates Act violates article V, section 1 of the Texas Constitution, because it grants the power to make final judicial determinations to one not constitutionally vested with judicial authority. I would hold, therefore, that an order entered pursuant to section 54.312(b) is void, that the judgment entered under this section should be reversed, and the cause remanded to the trial court for a new hearing.

Summary

The case establishes that magistrates/associate judges are agents who cannot issue binding orders absent proper referral and subsequent review/adoption by the district judge. Actions taken without proper referral or without the district judge's meaningful review/adoption are not legally binding and may be void. The opinion characterizes orders entered under a mechanism that allows final determinations by a magistrate without proper judicial oversight as void. While Omura involves Dallas criminal magistrates and a specific statute, the core principle—no final judicial power in a non-Article V judge absent strict compliance with referral and adoption requirements—supports an argument that actions by an associate judge without an order of referral or standing authority, and without district court adoption after review, are void.

[Tex. Fam. Code § 201.006 Tex. Fam. Code § 201.006 Order of Referral](#)

Extract

In referring a case to an associate judge, the judge of the referring court shall render: an individual order of referral; or a general order of referral specifying the class and type of cases to be heard by the associate judge. The order of referral may limit the power or duties of an associate judge.

Summary

Section 201.006 requires that when a matter is referred to an associate judge, the referring judge must render either an individual order of referral or a general order of referral defining the types of cases the associate judge may hear. The statute speaks to the procedural prerequisite for an associate judge to hear a case. It does not address whether interim actions by the district judge (e.g., issuing temporary orders without evidence) are void. It does indicate that absent an individual or general order of referral, sending the case to an associate judge would be improper procedurally, which may affect the validity of actions taken by the associate judge. The statute is silent on voidness versus voidability and does not itself declare actions void.

This memo was compiled by Vincent AI based on vLex materials available as of December 13, 2025. [View full answer on vLex](#)