

## Question

The regional presiding judge has been using the court coordinator to handle matters related to recusal. The court coordinator is an administrative staff member and not a judicial officer with the authority to decide or manage recusal motions under Texas law. The Texas Constitution and judicial ethics require that judicial functions, such as deciding recusal motions, be performed by judges and not delegated to administrative staff. Improper delegation of judicial functions violates the separation of powers doctrine and undermines public confidence in the judiciary, as recognized in Texas case law (e.g., *In re State ex rel. Wice*, 537 S.W.3d 312, 317 (Tex. Crim. App. 2017)). By delegating recusal matters to the court coordinator, the regional presiding judge is violating the separation of powers and compromising the integrity of the judicial process. A writ of mandamus is necessary to prevent further violations of judicial ethics and constitutional principles and to restore proper judicial oversight of recusal matters.

## Answer (Texas)

### Legal Note: Judicial Non-Delegation of Recusal Functions in Texas and the Impropriety of Court Coordinator Involvement

#### Introduction and Overview:

This note addresses the legal issue of whether a regional presiding judge in Texas may delegate the handling of recusal motions to a court coordinator, an administrative staff member who is not a judicial officer. The user seeks to challenge this practice, arguing that it violates the Texas Constitution, statutory law, and judicial ethics by improperly delegating core judicial functions to non-judicial personnel. The central legal question is: *Does the delegation of recusal-related duties to a court coordinator by a regional presiding judge contravene Texas law and constitutional principles, thereby justifying mandamus relief to restore proper judicial oversight?*

The most effective argument for the user is that Texas law and binding judicial precedent unambiguously require that recusal motions be handled exclusively by judges, not administrative staff, and that any contrary practice undermines the separation of powers and public confidence in the judiciary. This argument is strongly supported by both statutory provisions and a consistent line of Texas Court of Criminal Appeals decisions.

#### Relevant Facts and Factual Assumptions:

The following facts are relevant and assumed for the purposes of this analysis:

1. The regional presiding judge has been using the court coordinator, an administrative staff member, to handle matters related to recusal motions.
2. The court coordinator is not a judicial officer and lacks the authority to decide or manage recusal motions under Texas law.
3. The delegation includes tasks such as receiving, processing, or making determinations on recusal motions, or otherwise managing the recusal process in a manner that substitutes for judicial action.
4. The practice has resulted in recusal motions not being handled directly by a judge, as required by statute and rule.
5. The user seeks a writ of mandamus to compel compliance with the law and prevent further improper delegation.

If there are ambiguities—such as whether the coordinator is merely performing ministerial tasks (e.g., docketing, scheduling) or is substantively involved in judicial decision-making—these will be addressed in the risk analysis. For the purposes of the main argument, we assume the coordinator's involvement exceeds purely ministerial functions and encroaches on judicial responsibilities.

#### Legal Principles and Points of Law:

##### Statutory Mandate for Judicial Handling of Recusal Motions:

- [Tex. Gov't. Code § 74.059](#) provides that a judge "shall...request the presiding judge to assign another judge to hear a motion relating to the recusal of the judge from a case pending in his court." This statute assigns the responsibility for recusal motions to judges, not administrative staff. The use of "shall" denotes a mandatory, non-delegable duty.
- [Tex. Gov't. Code § 29.056](#) further specifies that upon receiving a request for assignment to hear a recusal motion, the regional presiding judge "shall: immediately set a hearing before the regional presiding judge, an active judge, or a judge on the list of judges who are eligible to serve on assignment...; cause notice of the hearing to be given to all parties or their counsel; and make any other orders...as justice may require." Again, these are judicial acts, not administrative ones.

##### Judicial Precedent Requiring Judge-Only Action on Recusal:

- In [Ex parte Krueger](#), the Texas Court of Criminal Appeals held that "Texas Rule of Civil Procedure 18b authorizes judges to voluntarily recuse themselves...Section 24.002 of the Texas Government Code provides the procedure...the judge shall enter a recusal order, request the presiding judge...to assign another judge...and take no further action in the case except for good cause stated in the order..." The Court emphasized that these are actions for judges, not staff. [Ex parte Krueger](#), 2023-06-28, Texas Court of Criminal Appeals.
- [In re Lucio](#) and [De Leon v. Aguilar](#) both reaffirm that "Rule 18a leaves a trial judge with no discretion—the trial judge must either recuse himself or refer the motion for another judge to decide." There is no provision for administrative staff to act in this process. [In re Lucio](#), 702-03, WR-72 (Tex. Crim. App. Apr 25, 2022); [De Leon v. Aguilar](#), 127 S.W.3d 1 (Tex. Crim. App. 2004).

##### Requirement for Written Judicial Orders and the Integrity of the Process:

- [Ex parte Thuesen](#) underscores that "the manner in which our judicial system handles the recusal of judges affects public confidence in the judiciary, as it goes to the 'very heart of the promise of impartiality.'" The Court further held that "the written order requirement applies to all rulings by a regional presiding judge related to the recusal or disqualification of a judge." This requirement is fundamentally judicial and cannot be satisfied by administrative staff. [Ex parte Thuesen](#), 546 S.W.3d 145 (Tex. Crim. App. 2017).

## Separation of Powers and Non-Delegation Doctrine:

- The Texas Constitution and judicial ethics require that core judicial functions—such as deciding or managing recusal motions—be performed by judges. Delegation of such functions to non-judicial staff violates the separation of powers and undermines the integrity of the judicial process. See *In re State ex rel. Wice*, 537 S.W.3d 312, 317 (Tex. Crim. App. 2017) ("The separation of powers doctrine is a fundamental principle of our constitutional system...").

## Secondary Materials and Practice Guides:

- Multiple pretrial motion treatises confirm that "once a sufficient motion to recuse has been filed, before proceeding further in the case, the judge must either recuse himself or request the presiding judge...to assign a judge to hear the motion under Tex. Gov't Code §74.059(c)(3)." These sources reinforce that the process is judicial, not administrative. (Pretrial Motions, 2021-08-16; 2020-08-16; 2017-08-17).

## Application and Analysis:

Applying these legal principles to the facts:

**Statutory and Rule-Based Prohibition on Delegation:** The Texas Government Code and Rules of Civil Procedure are explicit: only judges may act on recusal motions. The statutes use mandatory language ("shall") and assign duties directly to judges. There is no statutory or rule-based authority for a court coordinator to perform any substantive function in the recusal process. The consistent use of "judge" and the absence of any reference to administrative staff in the relevant provisions (Tex. Gov't. Code §§ 74.059, 29.056; Rule 18a) make clear that the legislature intended these to be non-delegable judicial functions.

**Judicial Precedent and the Non-Delegation Principle:** The Texas Court of Criminal Appeals has repeatedly held that recusal motions must be handled by judges. In *Ex parte Krueger*, the Court described a detailed, judge-centric process for recusal, with no mention of administrative staff. *In re Lucio* and *De Leon v. Aguilar* both make clear that the trial judge must act or refer the matter to another judge—there is no room for administrative intervention. The requirement for written orders by a judge, as emphasized in *Ex parte Thuesen*, further underscores the judicial nature of the process.

**Separation of Powers and Public Confidence:** The improper delegation of judicial functions to administrative staff violates the separation of powers, as recognized in *In re State ex rel. Wice*, and undermines public confidence in the judiciary. The Texas Constitution vests judicial power in the courts, not in administrative staff. The handling of recusal motions is a core judicial function because it directly implicates the impartiality and integrity of the judicial process.

**Mandamus as the Appropriate Remedy:** Where a judge or court official acts contrary to a clear legal duty, mandamus is the appropriate remedy. The statutory and case law authorities cited above establish a clear, non-discretionary duty for judges to handle recusal motions. The regional presiding judge's delegation of this duty to a court coordinator is a clear abuse of discretion and a violation of a ministerial duty, justifying mandamus relief.

## Key Submissions:

**Texas law unambiguously requires that recusal motions be handled by judges, not administrative staff.**

- Tex. Gov't. Code §§ 74.059, 29.056; *Ex parte Krueger*, 2023-06-28, Texas Court of Criminal Appeals; *In re Lucio*, 702-03, WR-72 (Tex. Crim. App. Apr 25, 2022); *De Leon v. Aguilar*, 127 S.W.3d 1 (Tex. Crim. App. 2004).

**Delegation of recusal-related duties to a court coordinator violates the separation of powers and judicial ethics.**

- *In re State ex rel. Wice*, 537 S.W.3d 312, 317 (Tex. Crim. App. 2017); *Ex parte Thuesen*, 546 S.W.3d 145 (Tex. Crim. App. 2017).

**The requirement for written judicial orders and direct judicial involvement in recusal matters is incompatible with administrative delegation.**

- *Ex parte Thuesen*, 546 S.W.3d 145 (Tex. Crim. App. 2017).

**Mandamus is the proper remedy to compel compliance with these non-discretionary duties.**

- See authorities above; mandamus is available where a public official fails to perform a ministerial act required by law.

## Alternative Arguments and Nuanced Points:

**Ministerial vs. Substantive Tasks:** If the court coordinator's role is limited to purely ministerial tasks (e.g., docketing, scheduling, providing notice), and all substantive decisions remain with the judge, the delegation may not violate the law. However, the authorities make clear that any involvement in the sufficiency determination, referral, or decision-making process is strictly reserved for judges. See *Pretrial Motions* (2017-08-17): "the trial judge against whom the motion is directed may properly make an initial decision of whether the motion is sufficient to invoke Rule 18a."

**Potential for De Facto Judicial Action:** Even if the coordinator is not formally making decisions, if their actions effectively substitute for judicial review or create the appearance of judicial action, this may still violate the law and undermine public confidence.

**Absence of Express Prohibition:** Opponents may argue that the statutes and rules do not expressly prohibit administrative involvement. However, the consistent assignment of duties to judges, the use of mandatory language, and the absence of any reference to administrative staff strongly support the non-delegation principle.

## Areas of Risk:

**Ambiguity in the Coordinator's Role:** If the facts show that the coordinator is only performing ministerial tasks, the argument for a violation is weaker. To mitigate this, the user should gather evidence that the coordinator is involved in substantive decision-making or is acting in a manner that substitutes for judicial action.

**Judicial Discretion in Administrative Practices:** Some courts may be reluctant to interfere with internal administrative practices unless there is clear evidence of harm or prejudice. The user should emphasize the risk to public confidence and the integrity of the process, as highlighted in [Ex parte Thuesen](#).

**Potential for Harmless Error:** If no party has been prejudiced by the coordinator's involvement, a court may be less inclined to grant mandamus. The user should argue that the violation is structural and affects the integrity of the process, not just the rights of individual litigants.

#### Mitigations:

- Document specific instances where the coordinator's involvement has affected the recusal process.
- Emphasize the structural nature of the violation and its impact on public confidence, citing [Ex parte Thuesen](#) and *In re State ex rel. Wice*.
- Argue that the law imposes a clear, non-discretionary duty on judges, making mandamus appropriate regardless of actual prejudice.

#### Conclusion:

Based on the facts and legal principles discussed, the strongest argument is that Texas law and binding precedent require that all substantive aspects of recusal motions be handled exclusively by judges. The delegation of these duties to a court coordinator is contrary to statutory mandates, judicial precedent, and constitutional principles of separation of powers. This practice undermines public confidence in the judiciary and constitutes a clear abuse of discretion, justifying mandamus relief. The user has a solid basis for seeking judicial intervention to restore proper judicial oversight of recusal matters, as demonstrated by the authorities cited above.

### Legal Authorities

[In re Lucio, 702-03, WR-72 \(Tex. Crim. App. Apr 25, 2022\)](#)

#### Texas Court of Criminal Appeals

##### Extract

*In De Leon v. Aguilar, this Court held: When a recusal motion is timely filed, Rule 18a leaves a trial judge with no discretion-the trial judge must either recuse himself or refer the motion for another judge to decide. See Rule 18a(c).*

##### Summary

Texas Rule of Civil Procedure 18a mandates that a trial judge must either recuse themselves or refer the recusal motion to another judge. This rule does not allow for the delegation of such decisions to non-judicial officers, such as a court coordinator. The passage supports the proposition by emphasizing that judicial functions related to recusal must be performed by judges, not administrative staff, thereby aligning with the separation of powers doctrine.

[Ex parte Thuesen, 546 S.W.3d 145 \(Tex. Crim. App. 2017\)](#)

#### Texas Court of Criminal Appeals

##### Extract

*The circumstances presented in this case focus our attention on an area of criminal practice which would benefit from further explanation. The manner in which our judicial system handles the recusal of judges affects public confidence in the judiciary, as it goes to the 'very heart of the promise of impartiality.' ... Further, Rule 18a, entitled 'Recusal and Disqualification of Judges,' provides that a ruling of the regional presiding judge must be made in writing: 'The ruling must be by written order.' Rule 18a(g)(2). ... Viewed in context, the written order requirement applies to all rulings by a regional presiding judge related to the recusal or disqualification of a judge. ... Furthermore, decisions affecting a judge's authority to preside over a case are fundamentally different in character than communications concerning pretrial settings and other routine matters, which may not require the entry of a written order in the minutes of the court.*

##### Summary

The passage emphasizes the importance of maintaining public confidence in the judiciary by adhering to proper procedures for recusal, which must be handled by judges and not delegated to administrative staff. The requirement for written orders by a regional presiding judge underscores the necessity for judicial oversight and authority in recusal matters, aligning with the proposition that improper delegation undermines judicial integrity.

[Ex parte Krueger](#)

#### Texas Court of Criminal Appeals

##### Extract

*Texas Rule of Civil Procedure 18b authorizes judges to voluntarily recuse themselves in proceedings in which their partiality might reasonably be questioned. ... Section 24.002 of the Texas Government Code provides the procedure that must be followed when a district judge voluntarily recuses himself: If a district judge determines on the judge's own motion that the judge should not sit in a case pending in the judge's court because the judge is disqualified or otherwise should recuse himself or herself, the judge shall enter a recusal order, request the presiding judge of that administrative judicial region to assign another judge to sit, and*

*take no further action in the case except for good cause stated in the order in which the action is taken. ... Rule 18a additionally provides that, when a recusal is granted, the presiding judge of the administrative judicial region 'must transfer the case to another court or assign another judge to the case.'*

## Summary

Specific procedures that must be followed when a judge decides to recuse themselves, emphasizing that these actions are to be taken by the judge and involve the presiding judge of the administrative judicial region. The passage does not mention any role for administrative staff, such as a court coordinator, in these procedures. This supports the proposition that judicial functions related to recusal should not be delegated to non-judicial staff, as the procedures are clearly defined to be carried out by judges.

[De Leon v. Aguilar, 127 S.W.3d 1 \(Tex. Crim. App. 2004\)](#)

## Texas Court of Criminal Appeals

### Extract

*When a recusal motion is timely filed, Rule 18a leaves a trial judge with no discretion—the trial judge must either recuse himself or refer the motion for another judge to decide. See Rule 18a(c). Any criminal cases to the contrary such as McClenan are overruled. Rule 18a does not contemplate that a trial judge whose impartiality is questioned can nevertheless determine whether the allegations of bias against him state sufficient grounds for recusal.*

### Summary

The passage emphasizes that under Rule 18a, a trial judge has no discretion in handling recusal motions; they must either recuse themselves or refer the motion to another judge. This underscores the principle that judicial functions, such as deciding recusal motions, cannot be delegated to non-judicial officers like a court coordinator. The passage supports the proposition by highlighting the requirement for judicial oversight in recusal matters, aligning with the argument that improper delegation violates the separation of powers and judicial ethics.

[Tex. Gov't. Code § 29.056 Tex. Gov't. Code § 29.056 Hearing On Motion](#)

### Extract

*A regional presiding judge who receives a request for the assignment of a judge to hear a motion to recuse or disqualify shall: immediately set a hearing before the regional presiding judge, an active judge, or a judge on the list of judges who are eligible to serve on assignment under Section GOVERNMENT CODE 74.055; cause notice of the hearing to be given to all parties or their counsel; and make any other orders, including orders on interim or ancillary relief in the pending cause as justice may require.*

### Summary

A regional presiding judge is responsible for setting a hearing before a judge (either the regional presiding judge, an active judge, or a judge eligible to serve on assignment) when a motion to recuse or disqualify is received. This indicates that the responsibility for handling such motions is explicitly assigned to judges, not administrative staff like court coordinators. The passage supports the proposition that delegating these responsibilities to non-judicial staff would be improper and contrary to the statutory requirements.

[Tex. Gov't. Code § 74.059 Tex. Gov't. Code § 74.059 Powers and Duties](#)

### Extract

*A district, statutory probate, or statutory county court judge shall: ... request the presiding judge to assign another judge to hear a motion relating to the recusal of the judge from a case pending in his court;*

### Summary

A judge is required to request the presiding judge to assign another judge to hear a motion relating to the recusal of the judge from a case pending in his court. This indicates that the responsibility for handling recusal motions is explicitly assigned to judges, not administrative staff. The passage supports the proposition that delegating such duties to a court coordinator, who is not a judge, would be contrary to the statutory requirements and could violate the separation of powers doctrine.

[Pretrial Motions](#)

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

### Extract

*Once a sufficient motion to recuse has been filed, before proceeding further in the case, the judge must either recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear the motion under Tex. Gov't Code §74.059(c)(3). Sanchez. If a recusal motion is timely filed and facially sufficient, a hearing must be held. Sanchez.*

## Summary

Procedural requirements for handling recusal motions in Texas. It specifies that once a recusal motion is filed, the judge must either recuse themselves or request the presiding judge of the administrative judicial district to assign another judge to hear the motion. This indicates that the responsibility for handling recusal motions lies with judges and not administrative staff, supporting the proposition that delegating such matters to a court coordinator is improper.

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

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*Once a sufficient motion to recuse has been filed, before proceeding further in the case, the judge must either recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear the motion under Tex. Gov't Code §74.059(c)(3). Sanchez. If a recusal motion is timely filed and facially sufficient, a hearing must be held. Sanchez.*

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Procedural requirements for handling recusal motions in Texas. It specifies that once a motion to recuse is filed, the judge must either recuse themselves or request the presiding judge of the administrative judicial district to assign another judge to hear the motion. This indicates that the responsibility for handling recusal motions lies with judges and not administrative staff, supporting the proposition that delegating such matters to a court coordinator is improper.

## [Pretrial Motions](#)

**Texas Criminal Lawyer's Handbook. Volume 1 - 2017 - James Publishing - Mark G. Daniel, Robert K. Gill - 2017-08-17**

## Extract

*When a recusal motion is filed, the trial judge against whom the motion is directed may properly make an initial decision of whether the motion is sufficient to invoke Rule 18a. ... Once a sufficient motion to recuse has been filed, before proceeding further in the case, the judge must either recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear such motion.*

## Summary

The responsibility for handling recusal motions lies with the judge against whom the motion is directed. The judge must make an initial decision on the sufficiency of the motion and then either recuse themselves or request the assignment of another judge. This indicates that the handling of recusal motions is a judicial function that should not be delegated to administrative staff, such as a court coordinator.

This memo was compiled by Vincent AI based on vLex materials available as of May 17, 2025. [View full answer on vLex](#)