

Question

The record contains unrefuted evidence of procedural irregularities, favoritism, and disregard for mandatory legal requirements. The standard for recusal is not actual bias, but whether a reasonable person, knowing all the facts, would question the judge's impartiality (In re K.E.M., 89 S.W.3d 814, 818 (Tex. App. 2002)). The objective standard for recusal is met in this case, and recusal is required as a matter of law to ensure the appearance and reality of impartial justice.

Answer (Texas)

Short response

Under Texas law, recusal is required when a reasonable person, fully informed of all the facts, would question a judge's impartiality, regardless of whether actual bias is proven. Where the record contains unrefuted evidence of procedural irregularities, favoritism, and disregard for mandatory legal requirements, the objective standard for recusal is met and recusal is mandated to preserve both the appearance and reality of impartial justice.

Summary

Texas law establishes an objective standard for judicial recusal: a judge must step aside if their impartiality might reasonably be questioned by a reasonable member of the public, knowing all the facts. This standard does not require proof of actual bias; rather, it is sufficient if the circumstances—including procedural irregularities, favoritism, or disregard for legal requirements—would cause a reasonable person to doubt the judge's impartiality.

The authorities provided, including Texas Rules of Civil Procedure 18b and extensive case law, consistently affirm that recusal is mandatory under these circumstances. The law prioritizes not only actual impartiality but also the appearance of impartiality, recognizing that public confidence in the judiciary depends on both. Therefore, in a case where the record contains unrefuted evidence of conduct undermining the appearance of impartiality, recusal is required as a matter of law.

Background and Relevant Law

Legislative and Regulatory Framework

The primary legislative authority governing judicial recusal in Texas is Rule 18b of the Texas Rules of Civil Procedure. Rule 18b(2) provides that a judge must recuse themselves in any proceeding where their impartiality might

reasonably be questioned or where they have a personal bias or prejudice concerning the subject matter or a party. This rule establishes an objective standard, focusing on the perception of a reasonable person rather than the judge's subjective intent or actual bias.

This standard is echoed in administrative regulations, such as [1 Tex. Admin. Code § 155.152](#), which applies the same grounds and procedures for recusal or disqualification of judges in administrative hearings, directly referencing Rule 18b. The regulation ensures that if a judge does not voluntarily recuse themselves, another judge will be assigned to rule on the motion, reinforcing the objective and mandatory nature of the recusal standard.

Case Law

Texas appellate courts have repeatedly affirmed the objective standard for recusal. The leading cases, including [In re K.E.M., 89 S.W.3d 814 \(Tex. App. 2002\)](#), [Rodriguez v. Newton](#), No. 13-19-00309-CV (Tex. App. Jul. 16, 2020), [Adams v. Adams](#), No. 01-18-00192-CV (Tex. App. Apr. 16, 2019), and [In re Interest of E.R.C., 496 S.W.3d 270 \(Tex. App. 2016\)](#), all articulate the same test: recusal is required if a reasonable member of the public, knowing all the facts, would have a reasonable doubt about the judge's impartiality.

This standard is not limited to cases of proven actual bias. As explained in [Ex Parte Ellis, 275 S.W.3d 109 \(Tex. App. 2008\)](#), the language of Rule 18b is mandatory and objective, requiring recusal whenever impartiality might reasonably be questioned. The courts have further clarified that doubts should be resolved in favor of recusal to maintain public confidence in the judiciary.

Numerous other cases reinforce this principle, including [Simpson v. State](#), No. 01-12-00380-CR (Tex. App. Jun. 17, 2014), [Duffey v. State, 428 S.W.3d 319 \(Tex. App. 2014\)](#), [Fuelberg v. State, 410 S.W.3d 498 \(Tex. App. 2013\)](#), [Rhodes v. State, 357 S.W.3d 796 \(Tex. App. 2011\)](#), [Gaal v. State, 332 S.W.3d 448 \(Tex. Crim. App. 2011\)](#), [Freeman v. State, 125 S.W.3d 505 \(Tex. Crim. App. 2003\)](#), [Sears v. Nueces County Sheriff Olivarez, 28 S.W.3d 611 \(Tex. App. 2000\)](#), and [Monroe v. Blackmon, 946 S.W.2d 533 \(Tex. App. 1997\)](#).

These cases consistently apply the reasonable person standard and emphasize that the appearance of impartiality is as important as actual impartiality.

Administrative Decisions and Secondary Materials

Administrative decisions, such as [Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#) (Aug. 4, 2022), apply a similar objective test, requiring recusal when a reasonable person, knowing all the facts, would question the judge's impartiality. Secondary materials, including legal handbooks and scholarly commentary, further support the principle that the appearance of impartiality is critical and that recusal is necessary to maintain public confidence in the judiciary.

Federal authorities, such as 28 U.S.C. § 455(a) and Supreme Court decisions like [Caperton v. A.T. Massey Coal Co.](#) and [Rippo v. Baker](#), are persuasive and

reinforce the Texas standard, emphasizing that recusal may be constitutionally required even absent actual bias if the probability of bias is too high to be tolerated.

Analysis

The Objective Standard for Recusal

The central legal question is whether the objective standard for recusal is met when the record contains unrefuted evidence of procedural irregularities, favoritism, and disregard for mandatory legal requirements. Under Texas law, the answer is unequivocally yes.

Rule 18b(2) of the Texas Rules of Civil Procedure requires recusal whenever a judge's impartiality might reasonably be questioned. The test is not whether the judge is actually biased, but whether a reasonable member of the public, knowing all the facts, would have a reasonable doubt about the judge's impartiality ([In re K.E.M., 89 S.W.3d 814, 818 \(Tex. App. 2002\)](#); [Rodriguez v. Newton](#), No. 13-19-00309-CV (Tex. App. Jul. 16, 2020); [Adams v. Adams](#), No. 01-18-00192-CV (Tex. App. Apr. 16, 2019); [In re Interest of E.R.C., 496 S.W.3d 270 \(Tex. App. 2016\)](#)).

This standard is mandatory and objective. As explained in [Ex Parte Ellis, 275 S.W.3d 109 \(Tex. App. 2008\)](#), the judge must assess their own impartiality in the first instance, but any reasonable doubt must be resolved in favor of recusal. The courts have repeatedly held that the appearance of impartiality is as important as actual impartiality, and public confidence in the judiciary depends on both ([Ex parte Chad Parker, 26 S.W.3d 711 \(Tex. App. 2000\)](#); [Sears v. Nueces County Sheriff Olivarez, 28 S.W.3d 611 \(Tex. App. 2000\)](#)).

Application to Procedural Irregularities, Favoritism, and Disregard for Legal Requirements

Where the record contains unrefuted evidence of procedural irregularities, favoritism, or disregard for mandatory legal requirements, these circumstances are precisely the type of facts that would cause a reasonable person to question a judge's impartiality. Texas courts have recognized that such conduct undermines the integrity of the judicial process and breeds skepticism and mistrust ([Ex parte Chad Parker, 26 S.W.3d 711 \(Tex. App. 2000\)](#)).

For example, in [Gaal v. State, 332 S.W.3d 448 \(Tex. Crim. App. 2011\)](#), recusal was required where a judge's actions—such as revoking a defendant's bond solely for invoking the right to a jury trial or refusing to consider part of the range of punishment without evidence—would lead a reasonable person to question impartiality. Similarly, in [Johnson-Todd v. Morgan](#), No. 09-17-00168-CV, No. 09-17-00194-CV (Tex. App. Dec. 20, 2018), arguments based on lack of notice and inability to conduct discovery were considered relevant to whether the judge's impartiality might reasonably be questioned.

The courts have also emphasized that recusal is not limited to cases of proven actual bias. The appearance of bias, prejudice, or favoritism—demonstrated by procedural irregularities or disregard for legal requirements—can be sufficient to require recusal ([Monroe v. Blackmon, 946 S.W.2d 533 \(Tex. App. 1997\)](#); [Freeman v. State, 125 S.W.3d 505 \(Tex. Crim. App. 2003\)](#)). The policy underlying this rule is to promote objectively impartial tribunals and to preserve public confidence in the judiciary.

The Role of Unrefuted Evidence

The presence of unrefuted evidence is particularly significant. When the record contains evidence of procedural irregularities, favoritism, or disregard for legal requirements that is not contradicted or explained, the risk to the appearance of impartiality is heightened. In such cases, the objective standard is clearly met, and recusal is not merely discretionary but required as a matter of law ([In re K.E.M., 89 S.W.3d 814, 818 \(Tex. App. 2002\)](#); [Rodriguez v. Newton](#), No. 13-19-00309-CV (Tex. App. Jul. 16, 2020)).

Constitutional and Public Policy Considerations

The Due Process Clause of the U.S. Constitution may also require recusal even in the absence of actual bias if the probability of bias is too high to be constitutionally tolerable ([Rippo v. Baker, 137 S. Ct. 905 \(2017\)](#), as cited in the secondary materials). The U.S. Supreme Court has held that objective standards for recusal are necessary to protect against unconscious or unrecognized bias and to maintain public confidence in the fairness of the judicial process ([Caperton v. A.T. Massey Coal Co.](#)).

Texas law is consistent with these federal standards, as reflected in both the rules and the case law. The focus is on the reasonable perception of impartiality, not the subjective intent of the judge. This approach is designed to ensure that justice is not only done but is seen to be done.

Administrative and Secondary Authority

Administrative decisions and secondary materials further reinforce the objective standard. For example, [Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1](#) (Aug. 4, 2022) applies the same reasonable person test, and legal commentaries emphasize that the appearance of impartiality is as important as actual impartiality. These sources support the conclusion that recusal is required whenever the circumstances would cause a reasonable person to question a judge's impartiality.

Exceptions and Caveats

While the standard for recusal is clear, courts have also cautioned that not every adverse ruling or procedural misstep warrants recusal. The reasonable person standard requires an objective assessment of all the facts in the public domain. Isolated or minor procedural errors, without more, may not be sufficient to meet the standard. However, where the record contains unrefuted evidence of significant procedural irregularities,

favoritism, or disregard for mandatory legal requirements, the threshold is met.

It is also important to note that the judge who is the subject of a recusal motion is required to assess their own impartiality in the first instance, but if they do not recuse themselves, another judge will be assigned to rule on the motion ([1 Tex. Admin. Code § 155.152](#)). This procedural safeguard ensures that the objective standard is applied fairly and consistently.

No negative or subsequent treatment has been identified in the provided materials that would undermine the authority of the leading cases or the legislative framework discussed above.

Conclusion

Texas law mandates recusal of a judge whenever a reasonable person, knowing all the facts, would question the judge's impartiality. This objective standard is firmly established in Rule 18b of the Texas Rules of Civil Procedure and is consistently applied in Texas case law. The presence of unrefuted evidence of procedural irregularities, favoritism, or disregard for mandatory legal requirements is precisely the type of circumstance that meets this standard. Recusal is therefore required as a matter of law to ensure both the appearance and reality of impartial justice, thereby upholding public confidence in the integrity of the judicial process.

Legal Authorities

[Gaal v. State , 332 S.W.3d 448 \(Tex. Crim. App. 2011\)](#)

Texas Court of Criminal Appeals

Extract

Recusal has been required, however, when a trial judge revoked a defendant's bond and put him in jail solely because he decided to invoke his right to a jury trial, or when a trial judge arbitrarily, without any evidence before him, refused to consider a portion of the range of punishment. Recusal of the trial judge in a criminal trial was also proper under the reasonable-person standard where the trial judge's remarks evidenced 'a degree of anger and hostility toward the government that is in excess of any provocation that we can find in the record,' or a personal prejudice against the defendant for successfully appealing his conviction on the basis of the judge's actions during a prior trial.

Summary

The passage from "Gaal v. State" provides examples where recusal was deemed necessary due to actions by a judge that could lead a reasonable person to question the judge's impartiality. It highlights that recusal is appropriate not only for actual bias but also when a judge's actions or

remarks could reasonably be perceived as biased or prejudiced. This aligns with the proposition that the standard for recusal is whether a reasonable person, knowing all the facts, would question the judge's impartiality.

[Freeman v. State, 125 S.W.3d 505 \(Tex. Crim. App. 2003\)](#)

Texas Court of Criminal Appeals

Extract

Because the trial judge in this case acted in such a way that would cause a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, to have a reasonable doubt that the judge was actually impartial, trial counsel should have moved to recuse the judge.

Summary

The passage from "Freeman v. State" directly addresses the standard for recusal, which is whether a reasonable person, knowing all the facts, would question the judge's impartiality. This aligns with the proposition that the objective standard for recusal is met when there is a reasonable doubt about a judge's impartiality. The passage supports the idea that recusal is necessary to ensure the appearance and reality of impartial justice, as it highlights the importance of public perception and the reasonable doubt standard.

[Monroe v. Blackmon, 946 S.W.2d 533 \(Tex. App. 1997\)](#)

Texas Court of Appeals

Extract

Rule 18b of the Texas Rules of Civil Procedure provides: (2) Recusal. A judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; ... We resolve doubts raised by the Hunt, Hermansen firm's representation of Judge Bennett in favor of recusal. ... when there exists a reasonable question--based on objective facts--as to a judge's impartiality, recusal is mandated. ... the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial. ... The disqualification requirements of section 455(a) is triggered, despite the lack of any actual bias on the judge's part, if a reasonable person, knowing all the circumstances, would question the judge's impartiality.

Summary

The passage from "Monroe v. Blackmon" discusses the standard for recusal under Texas Rule of Civil Procedure 18b(2)(a), which aligns with the proposition that recusal is required when a reasonable person, knowing all the facts, would question a judge's impartiality. The passage emphasizes that recusal is mandated when there is a reasonable question of impartiality, even in the absence of actual bias. This supports the proposition that the objective standard for recusal is met when procedural irregularities and favoritism are evident, ensuring the appearance and reality of impartial justice.

[In re K.E.M., 89 S.W.3d 814 \(Tex. App. 2002\)](#)

Texas Court of Appeals

Extract

The provisions of rule 18b apply an objective standard and are mandatory. See Monroe, 946 S.W.2d at 536 ("[W]hen there exists a reasonable question — based on objective facts — as to a judge's impartiality, recusal is mandated."); see also Rogers, 909 S.W.2d at 879 (Enoch, J., concurring) (suggesting that the proper inquiry under the recusal provisions of rule 18b(2)(a) is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial).

Summary

The passage from "In re K.E.M." discusses the application of an objective standard for judicial recusal under rule 18b, which is mandatory. It emphasizes that recusal is required when there is a reasonable question about a judge's impartiality based on objective facts. This aligns with the proposition that the standard for recusal is not actual bias but whether a reasonable person, knowing all the facts, would question the judge's impartiality.

[Kniatt v. State, 239 S.W.3d 910 \(Tex. App. 2007\)](#)

Texas Court of Appeals

Extract

Rule 18b(2)(a) plainly states that a 'judge shall recuse himself in any proceeding in which... his impartiality might reasonably be questioned.' TEX.R. CIV. P. 18b(2)(a). Texas cases almost unanimously state the following reasonable-person test for questioned impartiality: 'In determining whether a judge's impartiality might be reasonably questioned so as to require

recusal, the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge and the case, would have a reasonable doubt that the judge is actually impartial.'

Summary

The Texas legal standard for recusal is based on whether a reasonable person, knowing all the facts, would question the judge's impartiality. This aligns with the proposition that the standard for recusal is not actual bias but the appearance of impartiality. The passage supports the idea that procedural irregularities and favoritism could lead a reasonable person to question a judge's impartiality, thus meeting the objective standard for recusal.

[Ex Parte Ellis, 275 S.W.3d 109 \(Tex. App. 2008\)](#)

Texas Court of Appeals

Extract

The language of our rules is clear and straightforward: the grounds for recusal of an appellate justice or judge are the same as those provided in the rules of civil procedure. Tex.R.App. P. 16.2. Texas Rule of Civil Procedure 18b provides that '[a] judge shall recuse himself in any proceeding in which ... his impartiality might reasonably be questioned.' Tex.R. Civ. P. 18b(2)(a). This language is mandatory, and the standard is objective, not subjective. *Id.* It calls upon the judge—in the first instance—to assess his impartiality. A reasonable doubt is resolved in favor of recusal.

Summary

The passage clearly outlines the objective standard for recusal in Texas, emphasizing that a judge must recuse themselves if their impartiality might reasonably be questioned. This aligns with the proposition that the standard for recusal is not actual bias but whether a reasonable person would question the judge's impartiality. The passage also highlights that this standard is mandatory and objective, supporting the need for recusal to ensure impartial justice.

[Rodriguez v. Newton, NUMBER 13-19-00309-CV \(Tex. App. Jul 16, 2020\)](#)

Texas Court of Appeals

Extract

Courts enjoy a presumption of judicial impartiality. See *In Interest of E.R.C.*, 496 S.W.3d 270, 280 (Tex. App.—Texarkana 2016, pet. denied). However, a 'judge must recuse in any proceeding in which... the judge's impartiality

might reasonably be questioned.' See Tex. R. Civ. P. 18b(b)(1). The test for recusal is 'whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.' Hansen, 346 S.W.3d at 776; see Sears v. Olivarez, 28 S.W.3d 611, 614 (Tex. App.—Corpus Christi-Edinburg 2000, no pet.)

Summary

Standard for judicial recusal in Texas, emphasizing that the test is not actual bias but whether a reasonable person would question the judge's impartiality. This aligns with the proposition that the objective standard for recusal is met when there is a reasonable doubt about impartiality, supporting the need for recusal to ensure both the appearance and reality of impartial justice.

[Duffey v. State, 428 S.W.3d 319 \(Tex. App. 2014\)](#)

Texas Court of Appeals

Extract

We apply a reasonable person standard in determining whether a recusal motion should have been granted. See Woodruff v. Wright, 51 S.W.3d 727, 736 (Tex.App.-Texarkana 2001, pet. denied). The question is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial. Rogers v. Bradley, 909 S.W.2d 872, 881 (Tex. 1995). The impartiality standard set out in Rule 18b(2)(a) has been adopted in order that the public (i.e., the person on the street) might have confidence in the judiciary and to protect judges from unjustified complaints about their being partial in their decisions.

Summary

The passage from Duffey v. State discusses the application of a reasonable person standard for determining whether a recusal motion should be granted. It emphasizes that the standard is whether a reasonable member of the public, knowing all the facts, would doubt the judge's impartiality. This aligns with the proposition that the standard for recusal is not actual bias but the appearance of impartiality. The passage also references Rule 18b(2)(a), which is relevant to the legal requirements for recusal in Texas. Therefore, the passage supports the proposition by reinforcing the objective standard for recusal based on public perception of impartiality.

[Rhodes v. State , 357 S.W.3d 796 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

A judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.... Recusal is appropriate if the facts are such that a reasonable person would harbor doubts as to the impartiality of the trial judge.

Summary

The standard for recusal in Texas is whether a reasonable person would question the judge's impartiality. This aligns with the proposition that the objective standard for recusal is met when there is evidence of procedural irregularities, favoritism, or disregard for legal requirements, as these could lead a reasonable person to doubt the judge's impartiality.

[Sears v. Nueces County Sheriff Olivarez, 28 S.W.3d 611 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

The Texas Supreme Court mandates that when there exists a reasonable question as to a judge's impartiality, recusal is mandatory. In determining whether recusal is required pursuant to Tex.R.Civ.P. 18b(2)(a), the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain would have a reasonable doubt that a judge is actually impartial. Rodgers v. Bradley, 909 S.W.2d 872, 874 (Tex. 1995). The correct policy consideration in this regard is the promotion of objectively impartial tribunals. Public policy demands that a judge who sits in a case act with absolute impartiality. Pendergrass v. Beale, 59 Tex. 446, 447 (1883).

Summary

Standard for recusal in Texas, emphasizing that recusal is mandatory when there is a reasonable question about a judge's impartiality. It aligns with the proposition that the standard for recusal is not actual bias but whether a reasonable person would question the judge's impartiality. The passage also highlights the importance of promoting objectively impartial tribunals, which supports the need for recusal to ensure the appearance and reality of impartial justice.

[Ex parte Chad Parker, 26 S.W.3d 711 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

Public policy demands that a judge who tries a case act with absolute impartiality. It further demands that a judge appear to be impartial so that no doubts or suspicions exist as to the fairness or the integrity of the court. Judicial decisions rendered under circumstances that suggest bias, prejudice or favoritism undermine the integrity of the courts, breed skepticism and mistrust, and thwart the principles on which the judicial system is based.

Summary

The passage emphasizes the importance of both actual and perceived impartiality in judicial proceedings. It highlights that any appearance of bias, prejudice, or favoritism can undermine the integrity of the courts and the principles of justice. This aligns with the proposition that the standard for recusal is based on whether a reasonable person would question the judge's impartiality, not just actual bias.

[Simpson v. State, NO. 01-12-00380-CR \(Tex. App. Jun 17, 2014\)](#)

Texas Court of Appeals

Extract

Rule 18b(b) provides that a judge must be recused if 'the judge's impartiality might reasonably be questioned' or 'the judge has a personal bias or prejudice concerning the subject matter or a party.' TEX. R. CIV. P. 18b(b) (1-2). Rule 18b(b)(1) is a general rule requiring that a judge objectively appear to be impartial, which he fails to do if he 'harbors an aversion, hostility or disposition of a kind that a fair-minded person could not set aside when judging the dispute.' Gaal v. State, 332 S.W.3d 448, 453 (Tex. Crim. App. 2011); TEX. R. CIV. P. 18b(b)(1). The party seeking recusal must establish that a reasonable person, knowing all the circumstances involved, would have doubts as to the impartiality of the judge. See Kemp, 846 S.W.2d at 305; Abdygapparova, 243 S.W.3d at 198.

Summary

Standard for recusal under Texas law, which aligns with the proposition that the standard is not actual bias but whether a reasonable person would question the judge's impartiality. It emphasizes that a judge must be recused if their impartiality might reasonably be questioned, supporting the idea that procedural irregularities and favoritism could lead to such questioning. The passage also highlights the necessity for the party seeking recusal to demonstrate that a reasonable person, knowing all circumstances, would doubt the judge's impartiality, which is consistent with the proposition's argument for recusal based on the appearance of impartiality.

[Johnson-Todd v. Morgan, NO. 09-17-00168-CV, NO. 09-17-00194-CV \(Tex. App. Dec 20, 2018\)](#)

Texas Court of Appeals

Extract

Morgan argued that these rulings, along with Morgan's lack of notice of a bench trial and his inability to conduct discovery, show that the trial judge had a pervasive bias against Morgan from an extrajudicial source and that the judge's impartiality might reasonably be questioned, making recusal mandatory. ... Under Rule 18b(2), the test for recusal is 'whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.'

Summary

Standard for recusal under Texas law, which aligns with the proposition that the standard is not actual bias but whether a reasonable person would question the judge's impartiality. The passage also provides an example where procedural irregularities and lack of notice were argued as evidence of bias, supporting the idea that such factors can lead to a reasonable question of impartiality.

[Adams v. Adams, NO. 01-18-00192-CV \(Tex. App. Apr 16, 2019\)](#)

Texas Court of Appeals

Extract

Under Texas Rule of Civil Procedure 18b(b)(1) and (2), a judge shall recuse herself in any proceeding in which her impartiality 'might reasonably be questioned' or in which she has a 'personal bias or prejudice concerning the subject matter or a party[.]' TEX. R. CIV. P. 18b(b)(1), (2). ... Under Rule 18b(b)(2), the test for recusal is "whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.'

Summary

The passage from the "Adams v. Adams" judgment outlines the standard for recusal under Texas Rule of Civil Procedure 18b(b)(1) and (2), which aligns with the proposition's assertion that the standard for recusal is not actual bias but whether a reasonable person would question the judge's impartiality. This supports the proposition by providing a legal basis for recusal when impartiality might reasonably be questioned, which is central to ensuring the appearance and reality of impartial justice.

[Fuelberg v. State, 410 S.W.3d 498 \(Tex. App. 2013\)](#)

Texas Court of Appeals

Extract

In determining whether recusal is required, 'the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge and the case, would have a reasonable doubt that the judge is actually impartial.' *Ex parte Ellis*, 275 S.W.3d at 115-17 (internal quotations omitted). Thus, unlike the subjective issue of whether Judge Mills has a personal or pecuniary interest in this case, recusal is determined from an objective standard, and asks whether a reasonable person would doubt that Judge Mills could remain impartial. ... Judge Richardson should have determined whether a reasonable person would doubt Judge Mills's impartiality. Therefore, we conclude that Judge Richardson abused his discretion by applying the incorrect legal standard to Fuelberg's motion to recuse.

Summary

The standard for recusal is not based on actual bias but on whether a reasonable person, knowing all the facts, would question the judge's impartiality. This aligns with the proposition that the objective standard for recusal is met when there is unrefuted evidence of procedural irregularities, favoritism, and disregard for mandatory legal requirements, as it emphasizes the importance of the appearance of impartiality.

[In re Marriage of Bryant, 13-24-00285-CV \(Tex. App. May 15, 2025\)](#)

Texas Court of Appeals

Extract

Generally, it is disfavored for trial judges to call and question witnesses. *Johnson v. Hawkins*, 255 S.W.3d 394, 398 (Tex. App.-Dallas 2008, pet. denied); see also *Galvan v. State*, 988 S.W.2d 291, 297 (Tex. App.-Texarkana 1999, pet. ref'd) ('Texas is 'second to none' in its disapproval of judges' examination of witnesses during a jury trial. . . .'). But, though not favored, extensive and adversarial questioning by a trial judge is permissible in a bench trial if the questions are relevant to the issues before the court and the judge's impartiality is not affected... Bias is considered impermissible when it comes 'from an extrajudicial source and result[s] in an opinion on the merits of the case other than what the judge learned from participating in the case.'

Summary

Disfavor of judges questioning witnesses due to the potential appearance of bias, which aligns with the proposition's concern about procedural irregularities and favoritism. It also highlights that bias is impermissible when it comes from an extrajudicial source, supporting the idea that recusal is necessary when impartiality is in question. This aligns with the proposition's standard for recusal based on a reasonable person's perception of impartiality.

[Woodruff v. Wright, 51 S.W.3d 727 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

The Texas Rules of Civil Procedure provide that a judge shall recuse himself in any proceeding in which 'his impartiality might reasonably be questioned.' Tex. R. Civ. P. 18b(2)(a). ... In applying this standard, courts often apply a reasonable person standard in determining whether a recusal motion should have been granted. ... We agree that a reasonable person standard is appropriate because the rule provides for recusal where a judge's impartiality might reasonably be questioned.

Summary

The Texas Rules of Civil Procedure require a judge to recuse themselves if their impartiality might reasonably be questioned. The passage emphasizes the use of a "reasonable person standard" to determine whether recusal is appropriate, aligning with the proposition that the standard for recusal is not actual bias but whether a reasonable person would question the judge's impartiality.

[In re Interest of E.R.C., 496 S.W.3d 270 \(Tex. App. 2016\)](#)

Texas Court of Appeals

Extract

Subsections (b)(1) and (b)(2) require a judge to recuse himself in a proceeding in which his 'impartiality might reasonably be questioned' or in which he 'has a personal bias or prejudice concerning the subject matter or a party.' TEX.R. CIV. P. 18b(b)(1), (2). ... In determining whether a judge's impartiality might be reasonably questioned so as to require recusal, the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge and the case, would have a reasonable doubt that the judge is actually impartial.

Summary

Legal basis for recusal when impartiality might reasonably be questioned, supporting the proposition's claim that recusal is required to ensure impartial justice.

[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.

Summary

Procedure for recusal or disqualification of judges, referencing TRCP Rule 18b, which is consistent with the standard for recusal based on whether a reasonable person would question the judge's impartiality. The procedure ensures that if a judge does not voluntarily recuse themselves, another judge will be assigned to rule on the motion, thereby upholding the objective standard for recusal to maintain impartial justice.

[Recovering judicial integrity: toward a duty-focused disqualification jurisprudence based on Jewish law.](#)

Fordham Urban Law Journal - Fordham Urban Law Journal - Pill, Shlomo - 2011-12-01

Extract

further to preserve public confidence in the courts by disqualifying judges that merely appear biased. (42) Under section 455, a judge is disqualified when a party demonstrates that a reasonable person would question the judge's impartiality; (43) the movant need not show or even allege actual bias on the part of the challenged judge. (44) When deciding section 455(a) motions, courts ask whether a reasonable person aware of all the relevant facts, without knowing whether the challenged judge is actually biased, would question the judge's impartiality. (45)... the public's confidence in the judiciary, our inquiry focuses not on whether the judge actually harbored subjective bias, but rather on whether the record, viewed objectively, reasonably supports the appearance of prejudice or bias.

Summary

Standard for judicial disqualification under section 455, which aligns with the proposition's assertion that the standard for recusal is based on whether a reasonable person would question the judge's impartiality, not on actual bias. This supports the idea that procedural irregularities and favoritism, even if not proving actual bias, can meet the standard for recusal if they create an appearance of bias. The passage emphasizes the importance of maintaining public confidence in the judiciary by focusing on the appearance of impartiality, which is central to the proposition.

[A look at the extrajudicial source doctrine under 28 U.S.C. s. 455.](#)

Journal of Criminal Law and Criminology - Northwestern University, School of Law - Citera, Toni-Ann - 1995-03-22

Extract

himself in any proceeding in which his impartiality might reasonably be questioned. The legislature incorporated an objective standard in [sections] 455(a) for measuring the appearance of partiality 'to promote public confidence in the impartiality of the judicial process by saying, in effect, if there is a reasonable factual basis for doubting the judge's impartiality, he should disqualify himself and let another judge preside over the case.' Furthermore, by making disqualification mandatory whenever a judge's 'impartiality might reasonably be questioned,' the amendment eradicated the duty-to-sit.

Summary

Objective standard for recusal under section 455(a), which aligns with the proposition that recusal is required when a reasonable person might question a judge's impartiality. This supports the idea that the standard for recusal is not actual bias but the appearance of bias, which is consistent with the proposition's reference to the In re K.E.M. case. The passage emphasizes the importance of public confidence in judicial impartiality and the mandatory nature of disqualification when impartiality is reasonably questioned.

[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

The commentary to Canon 2 states that the test for appearance of impropriety hinges on the impression that conduct would make on

'reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose.' ... The appearance standard is based on the reasonable person standard, a standard judges themselves invoke in countless cases.

Summary

The appearance of impropriety standard is based on how a reasonable person, with knowledge of all relevant circumstances, would perceive the situation. This aligns with the proposition that the standard for recusal is not actual bias but whether a reasonable person would question the judge's impartiality. The passage supports the idea that the appearance standard is a reasonableness standard, which is consistent with the objective standard for recusal mentioned in the proposition.

[Caperton v. A.T. Massey Coal Co.: the objective standard for judicial recusal.](#)

**Notre Dame Law Review - University of Notre Dame Law School -
Todt, Jonathan H. - 2011-02-01**

Extract

Writing for the majority, Justice Kennedy held that any subjective examination by a judge is merely one step in the process for the examination of bias--'objective standards may also require recusal whether or not actual bias exists or can be proved.' ... The Court emphasized that this need for objective rules exists as 'protection against a judge who simply misreads or misapprehends' his or her true motives while trying a case. ... Therefore, objective standards based on the probability of bias--and which requires no actual proof of bias--are appropriate.

Summary

The Supreme Court in Caperton v. A.T. Massey Coal Co. established that recusal can be required based on objective standards, even in the absence of actual bias. This aligns with the proposition that the standard for recusal is whether a reasonable person would question the judge's impartiality, not whether actual bias is present. The passage supports the idea that procedural irregularities and favoritism could lead to a reasonable perception of bias, necessitating recusal to maintain impartial justice.

[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

The passage from the Texas Criminal Lawyer's Handbook outlines the conditions under which a judge should recuse themselves, emphasizing that recusal is necessary when a judge's impartiality might reasonably be questioned. This aligns with the proposition that the standard for recusal is not actual bias but whether a reasonable person would question the judge's impartiality. The reference to the Due Process Clause further supports the idea that recusal is required to maintain constitutional standards of fairness, even in the absence of actual bias.

[Pretrial motions](#)

Texas Criminal Lawyer's Handbook. Volume 1-2 (2024) - James Publishing - Mark G. Daniel, Robert K. Gill

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) he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]' *Gaal v. State*, 332 S.W.3d 448 (Tex. Crim. App. 2011).

Summary

The passage from the Texas Criminal Lawyer's Handbook outlines the grounds for recusal under Rule 18b(2) of the Texas Rules of Civil Procedure, which includes situations where a judge's impartiality might reasonably be questioned. This aligns with the proposition that the standard for recusal is not actual bias but whether a reasonable person would question the judge's

impartiality. The passage supports the idea that procedural irregularities and favoritism could lead to such questioning, thus meeting the objective standard for recusal.

[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).

Summary

The passage from the Texas Criminal Lawyer's Handbook discusses the standard for recusal, emphasizing that recusal may be necessary even in the absence of actual bias if the probability of bias is too high to be constitutionally acceptable. This aligns with the proposition that the standard for recusal is based on whether a reasonable person would question the judge's impartiality, rather than requiring proof of actual bias.

[What every judge should know about the appearance of impartiality.](#)

Albany Law Review - Albany Law School - Abramson, Leslie W. - 2016-06-22

Extract

All states include within their code of judicial conduct a directive for judges to follow regarding disqualification when 'his [or her] impartiality might reasonably be questioned.' ... When specific rules of presumed or actual bias do not apply because the facts do not fit the ethical standard, the judge or a moving party still may rely upon the above standard based on apparent bias or the appearance of partiality, even though no actual bias exists. ... The appearance of impartiality is as important as actual impartiality. ... Texas uses the 'might reasonably be questioned' standard, albeit in a court rule that does not include other subjects covered by the CJC. TEX. R. CIV. P. 18b(b)(1) (2011).

Summary

The passage highlights that the standard for judicial recusal is based on whether a judge's impartiality might reasonably be questioned, not

necessarily on actual bias. This aligns with the proposition that the objective standard for recusal is met when a reasonable person, knowing all the facts, would question the judge's impartiality. The passage also specifically mentions that Texas uses this standard, reinforcing its applicability to the jurisdiction in question.

[Pretrial Motions](#)

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

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: ... 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 from the Texas Criminal Lawyer's Handbook discusses the grounds for recusal under Rule 18b(2) of the Texas Rules of Civil Procedure, which aligns with the proposition that recusal is based on whether a reasonable person would question the judge's impartiality, not just actual bias. The reference to the Due Process Clause and the case *Rippo v. Baker* further supports the idea that recusal is necessary when the probability of bias is too high, even if there is no actual bias.

[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 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 the standard for recusal is based on whether a reasonable person would question the judge's impartiality, rather than requiring proof of actual bias.

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

Merit Systems Protection Board

Extract

Because the administrative judge's impartiality could reasonably be questioned, he erred in denying the appellant's request for recusal... 'This is an objective test that mandates recusal 'when a reasonable person, knowing all the facts, would question the judge's impartiality.'

Summary

Standard for recusal, which is based on whether a reasonable person, knowing all the facts, would question the judge's impartiality. This aligns with the proposition's assertion that the standard for recusal is not actual bias but the appearance of impartiality. The passage supports the idea that procedural irregularities and favoritism can lead to a reasonable questioning of a judge's impartiality, thus necessitating recusal to maintain the appearance and reality of impartial justice.

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

Merit Systems Protection Board

Extract

Because the administrative judge's impartiality could reasonably be questioned, he erred in denying the appellant's request for recusal... 'This is an objective test that mandates recusal 'when a reasonable person, knowing all the facts, would question the judge's impartiality.'

Summary

Standard for recusal, which is based on whether a reasonable person, knowing all the facts, would question the judge's impartiality. This aligns with the proposition's assertion that the standard for recusal is not actual bias but the appearance of impartiality. The passage supports the idea that procedural irregularities and favoritism could lead a reasonable person to

question a judge's impartiality, thus meeting the objective standard for recusal.

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