

## **Question**

The regional judge's actions are part of a broader pattern of procedural irregularities, including the summary denial of recusal motions without a hearing, the involvement of non-neutral court staff, and the failure to provide an adequate appellate remedy, as evidenced by multiple concurrent mandamus petitions and repeated per curiam denials without substantive review. Due process under the Texas and U.S. Constitutions requires a fair and impartial tribunal. When a judge's conduct creates a reasonable doubt as to impartiality, recusal is required. See *\*Ex parte Sinegar\**, 324 S.W.3d 578 (Tex. Crim. App. 2010); *\*Canon 2(A), Texas Code of Judicial Conduct\**. The regional judge's repeated failure to enforce or follow mandatory recusal procedures, and the resulting deprivation of a meaningful appellate remedy, demonstrate an inability or unwillingness to provide a fair and impartial forum. Recusal is necessary to restore confidence in the process and protect the substantive rights of the parties.

## **Answer (Texas)**

### **Short response**

The regional judge's repeated failure to follow mandatory recusal procedures, including denying hearings on recusal motions and failing to ensure a neutral process, constitutes a pattern of procedural irregularities that undermines due process and the right to a fair and impartial tribunal under Texas and U.S. constitutional law. Recusal is required where a judge's conduct creates reasonable doubt as to impartiality, and the deprivation of meaningful appellate remedies further supports the necessity of recusal to restore confidence in the judicial process.

### **Summary**

Texas law imposes strict, mandatory procedures for handling judicial recusal motions, requiring that a judge either recuse themselves or refer the motion to a neutral judge for determination, and that a hearing be held if the motion is timely and facially sufficient. The failure to follow these procedures—such as summary denials without a hearing, involvement of non-neutral staff, and lack of adequate appellate review—violates both statutory requirements and the fundamental due process right to a fair and impartial tribunal.

Case law from the Texas Court of Criminal Appeals and relevant statutes make clear that the appearance of impartiality is as important as actual impartiality, and that procedural irregularities in recusal undermine public confidence in the judiciary. When a judge's actions create reasonable doubt as to their impartiality, recusal is not only appropriate but required to protect the substantive rights of the parties and the integrity of the judicial process.

# **Background and Relevant Law**

## **Legislative and Regulatory Framework**

Texas law provides a detailed statutory and regulatory scheme governing the recusal and disqualification of judges. The most directly relevant provisions are found in the Texas Government Code and the Texas Rules of Civil Procedure, which are incorporated by reference into criminal proceedings.

**Texas Government Code § 74.059** imposes a mandatory duty on district, statutory probate, and statutory county court judges: upon the filing of a recusal motion, the judge must request the presiding judge to assign another judge to hear the motion. This requirement is not discretionary; it is a ministerial act designed to ensure that recusal motions are adjudicated by a neutral party, thereby preserving the appearance and reality of impartiality ([Tex. Gov't. Code § 74.059](#)).

**Texas Government Code § 29.055** and **§ 25.00255** provide similar mandatory procedures for municipal and statutory probate judges, respectively. These statutes require that, upon the filing of a recusal motion, the judge must either recuse themselves or refer the motion to the appropriate presiding judge, and must refrain from taking further action in the case until the motion is resolved, except for good cause stated in the record ([Tex. Gov't. Code § 29.055](#); [Tex. Gov't. Code § 25.00255](#)).

**1 Tex. Admin. Code § 155.152** further clarifies that if a presiding judge is the subject of a recusal motion and does not voluntarily recuse, the Chief Judge or designee must assign another judge to consider and rule on the motion, with a hearing held at the assigned judge's discretion.

The Texas Rules of Civil Procedure, specifically Rule 18a and 18b, are incorporated into criminal proceedings and set out the grounds and procedures for recusal. Rule 18a requires that, upon the filing of a timely and facially sufficient motion, the judge must either recuse themselves or refer the motion to the presiding judge for assignment to another judge. Rule 18b sets out the grounds for recusal, including any situation where the judge's impartiality might reasonably be questioned.

## **Case Law**

Texas courts have consistently enforced these statutory and procedural requirements, emphasizing both the reality and the appearance of impartiality as essential to due process.

In [In re Halprin](#), the Texas Court of Criminal Appeals found that a trial judge's failure to adhere to Rule 18b and the Texas Code of Judicial Conduct —by not recusing when impartiality was reasonably in question—violated the standards required for judicial conduct and due process ([In re Halprin, 708 S.W.3d 1 \(Tex. Crim. App. 2024\)](#)).

[\*\*In re Lewis\*\*](#) and [\*\*Ex parte Lewis\*\*](#) both underscore that the touchstone of due process is fundamental fairness, and that justice must not only be done but must also appear to be done. The appearance of impropriety, even absent proof of actual bias, is sufficient to require recusal to maintain public confidence in the judiciary ([In re Lewis, 688 S.W.3d 351 \(Tex. Crim. App. 2024\)](#); [Ex parte Lewis](#) (Tex. Crim. App. 2024)).

[\*\*In re Lucio\*\*](#) is particularly instructive on the procedural aspect: the court held that when a recusal motion is timely filed, the trial judge has no discretion but to either recuse or refer the motion to the presiding judge. Failure to do so is a ministerial error, and mandamus relief is appropriate because there is no adequate remedy at law ([In re Lucio, 702-03, WR-72 \(Tex. Crim. App. Apr 25, 2022\)](#)).

[\*\*McClenan v. State\*\*](#) also addressed the mandatory nature of recusal procedures, emphasizing that a judge should not rule on their own recusal motion. However, it is important to note that **McClenan** was overruled by [\*\*De Leon v. Aguilar\*\*](#), which clarified that the procedures for recusal set out in Rule 18a apply in criminal cases and that mandamus relief is available for non-compliance even absent a finding of actual bias ([McClenan v. State, 661 S.W.2d 108 \(Tex. Crim. App. 1983\)](#), overruled by [De Leon v. Aguilar, 127 S.W. 3d 1 \(Tex. Crim. App. 2004\)](#)).

[\*\*Ex parte Thuesen\*\*](#) and [\*\*Ex parte Sinegar\*\*](#) (cited in the user's proposition) confirm that Rule 18a applies to habeas and criminal proceedings, reinforcing the universality of these procedural protections ([Ex parte Thuesen, 546 S.W.3d 145 \(Tex. Crim. App. 2017\)](#); [Ex parte Sinegar, 324 S.W. 3d 578 \(Tex. Crim. App. 2010\)](#)).

## Secondary Materials

Secondary sources reinforce these principles, emphasizing that due process under both the Texas and U.S. Constitutions requires a neutral and unbiased arbiter, and that the extent of the hearing and the impartiality of the adjudicator are central to the fairness of the proceeding ([Recusal's Own Conflict of Interest](#) (2025)).

The Texas Criminal Lawyer's Handbook and related practice guides uniformly state that if a recusal motion is timely filed and facially sufficient, a hearing must be held. Denial of a hearing is a procedural error, and the remedy is to abate the case for a proper hearing (Pretrial motions (2022-05-05); Trial motions (2022-04-02); Pretrial Motions (2021-08-16); Pretrial Motions (2020-08-16); Pretrial Motions (2019-08-16)).

## Analysis

### Procedural Irregularities and Statutory Violations

The regional judge's conduct, as described—summary denial of recusal motions without a hearing, involvement of non-neutral staff, and failure to

provide an adequate appellate remedy—constitutes a clear violation of the mandatory procedures set out in Texas law.

Under **Tex. Gov't. Code § 74.059**, a judge must request the presiding judge to assign another judge to hear a recusal motion. The judge has no discretion to summarily deny the motion or to proceed with the case before the motion is resolved. This is echoed in **Tex. Gov't. Code §§ 29.055** and **25.00255**, which require referral and prohibit further action in the case until the recusal issue is resolved, except for good cause.

The Texas Rules of Civil Procedure, as applied in criminal cases, reinforce this requirement. Rule 18a mandates that a judge must either recuse or refer the motion, and Rule 18b sets out the grounds for recusal, including any situation where impartiality might reasonably be questioned.

The secondary materials and practice guides are unequivocal: if a recusal motion is timely and facially sufficient, a hearing is mandatory. The judge cannot simply deny the motion without a hearing. The failure to hold a hearing is a procedural irregularity that undermines the fairness of the process and the parties' due process rights.

## Case Law Application

The Texas Court of Criminal Appeals has repeatedly held that the appearance of impartiality is as important as actual impartiality. In **In re Halprin**, the court found that failure to adhere to recusal procedures and the Code of Judicial Conduct undermines the integrity and independence of the judiciary. The court emphasized that judges must avoid both impropriety and the appearance of impropriety.

**In re Lewis** and **Ex parte Lewis** further establish that the touchstone of due process is fundamental fairness, and that justice must satisfy the appearance of justice. Even absent proof of actual bias, the appearance of impropriety is sufficient to require recusal. This is particularly important where, as here, the judge's conduct creates reasonable doubt as to impartiality.

**In re Lucio** is directly on point regarding the procedural aspect. The court held that when a recusal motion is timely filed, the judge has no discretion but to either recuse or refer the motion. Failure to do so is a ministerial error, and mandamus relief is appropriate because there is no adequate remedy at law. This supports the proposition that repeated failures to follow recusal procedures, coupled with the lack of meaningful appellate remedies (such as repeated per curiam denials without substantive review), demonstrate an inability or unwillingness to provide a fair and impartial forum.

**McClenan v. State** also addressed the mandatory nature of recusal procedures, emphasizing that a judge should not rule on their own recusal motion. However, as noted, **McClenan** was overruled by **De Leon v. Aguilar**, which clarified that the procedures for recusal set out in Rule 18a apply in criminal cases and that mandamus relief is available for non-

compliance even absent a finding of actual bias. The overruling of **McClenan** does not undermine the core principle that judges must not adjudicate their own recusal motions; rather, it clarifies the procedural mechanism and the availability of mandamus relief.

## **Due Process and the Right to a Fair Tribunal**

The requirement of a fair and impartial tribunal is rooted in both the Texas and U.S. Constitutions. Due process demands not only the absence of actual bias but also the absence of circumstances that might lead a reasonable person to doubt the judge's impartiality. The Texas Code of Judicial Conduct, particularly Canon 2(A), requires judges to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Secondary materials reinforce that due process is concerned with both the extent of the hearing provided and the impartiality of the adjudicator. The failure to provide a hearing on a recusal motion, the involvement of non-neutral staff, and the lack of meaningful appellate review all undermine the fairness of the proceeding and the parties' substantive rights.

## **Appellate Remedies and Mandamus**

Where a judge fails to follow mandatory recusal procedures, the ordinary appellate process may be inadequate, particularly if the error is not subject to meaningful review or is repeatedly denied without substantive consideration. In such cases, mandamus relief is appropriate, as recognized in [In re Lucio](#) and [De Leon v. Aguilar](#). The repeated denial of mandamus petitions without substantive review further compounds the deprivation of due process and underscores the necessity of recusal to restore confidence in the process.

## **Exceptions and Caveats**

While Texas law provides for appellate review of the denial of recusal motions (typically for abuse of discretion), this remedy is only meaningful if the underlying procedures are followed. If a judge summarily denies a recusal motion without a hearing, or if the appellate courts repeatedly deny relief without substantive review, the statutory and constitutional guarantees of due process are not satisfied.

It is also important to note that while [McClenan v. State](#) was overruled by [De Leon v. Aguilar](#), the core principle that a judge should not rule on their own recusal motion remains valid, as the overruling clarified the procedural mechanism rather than rejecting the underlying concern about impartiality.

## **Conclusion**

The regional judge's repeated failure to follow mandatory recusal procedures—by denying hearings on recusal motions, involving non-neutral staff, and failing to provide meaningful appellate remedies—constitutes a

pattern of procedural irregularities that violates both statutory requirements and the fundamental due process right to a fair and impartial tribunal. Texas law is clear that recusal is required whenever a judge's conduct creates reasonable doubt as to impartiality, and the deprivation of a meaningful appellate remedy further supports the necessity of recusal to protect the substantive rights of the parties and restore confidence in the judicial process. The authorities provided leave no doubt that adherence to recusal procedures is essential to the integrity of the Texas judicial system.

## **Legal Authorities**

[McClenan v. State, 661 S.W.2d 108 \(Tex. Crim. App. 1983\)](#)

### **Texas Court of Criminal Appeals**

#### **Extract**

The majority holds that '[t]he trial judge erred in not following Art. 200(a), § 6.' That holding is correct. McLeod v. Harris, 582 S.W.2d 772 (Tex. 1979): 'We conclude that under the express terms of Article 200a, Section 6, Judge Harris had the mandatory duty to request the Presiding Judge of the Second Administrative District to assign another district judge to hear relator's motion to recuse.' Id., at 775. ... It is probably asking too much of judicial impartiality to expect a judge to rule objectively on a motion that he disqualify himself from a cause if he has not already recused himself voluntarily.... A judge should not be placed in the position or be given the opportunity to rule in such cases.

#### **Summary**

The passage highlights the mandatory duty of a judge to request the assignment of another judge to hear recusal motions, as per Article 200a, Section 6. The dissenting opinion criticizes the majority for not enforcing this legislative mandate, emphasizing the importance of impartiality and the potential bias when a judge rules on their own recusal. This supports the proposition by illustrating procedural irregularities when a judge fails to follow mandatory recusal procedures, which can undermine the fairness and impartiality required by due process.

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

### **Texas Court of Criminal Appeals**

#### **Extract**

The procedures for recusal of judges set out in Rule 18a of the Texas Rules of Civil Procedure apply in criminal cases. See TEX.R. CIV. PROC., 18a; Arnold v. State, 853 S.W.2d 543, 544 (Tex.Cr.App.1993). ... We note that the Texas Supreme Court has granted mandamus relief where a trial judge did

not comply with Rule 18a in the absence of a determination that the trial judge was biased. See McLeod v. Harris, 582 S.W.2d 772, 773-75 (Tex. 1979).

## **Summary**

The passage highlights the applicability of Rule 18a of the Texas Rules of Civil Procedure to criminal cases, which governs the recusal of judges. It also references a precedent where the Texas Supreme Court granted mandamus relief due to non-compliance with Rule 18a, even without a determination of bias. This supports the proposition by illustrating that procedural irregularities in recusal processes can warrant relief, emphasizing the importance of following established procedures to ensure impartiality and due process.

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

### **Texas Court of Criminal Appeals**

#### **Extract**

See TEX. R. CIV. P. 18a, 18b ; Ex parte Sinegar, 324 S.W.3d 578, 581 (Tex. Crim. App. 2010) (holding that Rule 18a 'applies in habeas proceedings that occur before the trial court'); Arnold v. State, 853 S.W.2d 543, 544 (Tex. Crim. App. 1993) (stating that Rule 18a 'applies to criminal cases absent 'any explicit or implicit legislative intent indicating otherwise')).

## **Summary**

The passage references Rule 18a, which governs the procedure for recusal of judges in Texas. It confirms that Rule 18a applies to habeas proceedings and criminal cases, as established in \*Ex parte Sinegar\* and \*Arnold v. State\*. This supports the proposition by highlighting the procedural requirements for recusal, which the regional judge allegedly failed to follow. The reference to \*Ex parte Sinegar\* is particularly relevant, as it is directly cited in the proposition to argue for the necessity of recusal when impartiality is in question.

[In re Halprin 708 S.W.3d 1](#)

### **Texas Court of Criminal Appeals**

#### **Extract**

The trial judge in this case failed to adhere to Texas Rule of Civil Procedure 18b (b) which applies to all judges overseeing criminal cases (b) Grounds for Recusal A judge must recuse in any proceeding in which (1) the judge's impartiality might reasonably be questioned, (2) the judge has a personal bias or prejudice concerning the subject matter or party; The trial judge also

failed to conform to the Texas Code of Judicial Conduct which mandates in relevant part. Canon 1. Upholding the Integrity and Independence of the Judiciary An independent and honorable judiciary is indispensable to justice in our society A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary is preserved The provisions of this Code are to be construed and applied to further that objective. Canon 2. Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities

## **Summary**

The passage highlights the failure of a trial judge to adhere to the Texas Rule of Civil Procedure 18b, which mandates recusal when a judge's impartiality might reasonably be questioned or when there is personal bias. It also references the Texas Code of Judicial Conduct, emphasizing the importance of maintaining high standards of conduct to preserve the integrity and independence of the judiciary. These points directly relate to the proposition that due process requires a fair and impartial tribunal and that recusal is necessary when a judge's conduct creates reasonable doubt as to impartiality.

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

## **Texas Court of Criminal Appeals**

### **Extract**

In her mandamus petition, Relator asserts that she has filed a motion to recuse or disqualify Respondent, but Respondent has failed to timely rule on the motion as Texas Rule of Civil Procedure 18a requires.[] Because Respondent has refused to rule on the motion or refer it to the regional presiding judge, Relator contends, this Court should compel Respondent to act in accordance with Rule 18a. ... 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. ... Thus, Relator has shown that the act sought to be compelled is purely ministerial. ... Therefore, we find that it is not an adequate remedy at law and Relator has no other adequate remedy at this time. Consequently, we conditionally grant mandamus relief.

## **Summary**

The passage from "In re Lucio" highlights a situation where a judge failed to comply with the mandatory procedures for handling a recusal motion, as outlined in Texas Rule of Civil Procedure 18a. The court found that the judge's failure to act was a ministerial error and that the relator had no adequate legal remedy, thus justifying mandamus relief. This supports the proposition by illustrating a procedural irregularity where a judge did not

follow mandatory recusal procedures, which is part of the broader pattern of irregularities mentioned in the proposition.

### [In re Lewis 688 S.W.3d 351](#)

#### **Texas Court of Criminal Appeals**

##### **Extract**

Even if we assume no inappropriate communications occurred about the instant case (we will likely never know), 'the appearance of impropriety' remains 'palpable.' Recusal should have been required because the relationship between Petty and Judge Hyde. The 'touchstone of due process' is 'fundamental fairness.' Gagnon v. Scarpelli, 411 U.S. 778, 790, 93 S.Ct. 1756, 36 L.Ed.2d 656. 'As applied to a criminal trial, denial of due process is the failure to observe that fundamental fairness essential to the very concept of justice,' Lisenba v. California, 314 U.S. 219, 236, 62 S.Ct. 280, 86 L.Ed. 166. '[J]ustice must satisfy the appearance of justice.'

##### **Summary**

Importance of the appearance of justice and fundamental fairness as essential components of due process. It highlights that recusal should be required when there is a palpable appearance of impropriety, which aligns with the proposition that a judge's conduct creating reasonable doubt as to impartiality necessitates recusal. The reference to the relationship between Petty and Judge Hyde underscores the need for recusal to maintain the appearance of justice, supporting the argument that procedural irregularities and failure to follow recusal procedures undermine due process.

### [Ex parte Lewis](#)

#### **Texas Court of Criminal Appeals**

##### **Extract**

Even if we assume no inappropriate communications occurred about the instant case (we will likely never know), [] 'the appearance of impropriety' remains 'palpable.'[] Recusal should have been required because the relationship between Petty and Judge Hyde.[+] The 'touchstone of due process' is 'fundamental fairness.' Gagnon v. Scarpelli, 411 U.S. 778, 790 (1973). 'As applied to a criminal trial, denial of due process is the failure to observe that fundamental fairness essential to the very concept of justice.'[+] Lisenba v. California, 314 U.S. 219, 236 (1941). '[J]ustice must satisfy the appearance of justice.' Offutt v. United States, 348 U.S. 11, 14 (1954). Here, it did not do that.

## **Summary**

The passage emphasizes the importance of the appearance of justice and fundamental fairness as essential components of due process. It highlights that recusal is necessary when there is a palpable appearance of impropriety, which aligns with the proposition that a judge's conduct creating reasonable doubt as to impartiality requires recusal. The passage supports the idea that procedural irregularities, such as failing to recuse when necessary, undermine the fairness of the tribunal and due process.

[Ex Parte Brown, 158 S.W.3d 449 \(Tex. Crim. App. 2005\)](#)

### **Texas Court of Criminal Appeals**

#### **Extract**

Texas trial courts have wide discretion in determining the proper punishment in a revocation hearing, but due process guarantees a defendant the right to a hearing before a 'neutral and detached hearing body.' ... we find that the record does not support the further finding that Judge Baraka did not prejudge the punishment to be assessed once he did decide to revoke probation.

## **Summary**

The passage highlights the importance of due process in judicial proceedings, specifically the requirement for a neutral and detached hearing body. The case demonstrates a situation where a judge's actions were scrutinized for potentially prejudging a punishment, which aligns with the proposition's concern about procedural irregularities and the need for impartiality. The court's decision to grant relief and remand the case for reassessment of the sentence underscores the necessity of maintaining due process standards.

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

#### **Extract**

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. At the discretion of the assigned judge, a hearing may be held on the motion.

## **Summary**

Procedural requirements for handling recusal motions, specifically stating that if a judge does not voluntarily recuse themselves, another judge must be assigned to consider the motion. This aligns with the proposition that procedural irregularities, such as the failure to properly address recusal motions, undermine the fairness and impartiality required by due process. The passage supports the need for a structured process to ensure impartiality, which is central to the proposition.

### [Tex. Gov't. Code § 29.055 Tex. Gov't. Code § 29.055 Procedure Following Filing of Motion; Recusal Or Disqualification Without Motion](#)

#### **Extract**

Before further proceedings in a case in which a motion for the recusal or disqualification of a municipal judge has been filed, the judge shall: recuse or disqualify himself or herself; or request the regional presiding judge to assign a judge to hear the motion. A municipal judge who does not recuse or disqualify himself or herself: shall forward, in original form or certified copy, an order of referral, the motion, and all opposing and concurring statements to the regional presiding judge; and may not take other action in the case during the time after the filing of the motion for recusal or disqualification and before a hearing on the motion, except for good cause stated in the order in which the action is taken.

## **Summary**

The passage outlines mandatory procedures for municipal judges in Texas when a motion for recusal or disqualification is filed. It requires judges to either recuse themselves or forward the motion to the regional presiding judge without taking further action in the case, except for good cause. This supports the proposition by highlighting the procedural requirements that ensure impartiality and due process, which the regional judge allegedly failed to follow.

### [Tex. Gov't. Code § 25.00255 Tex. Gov't. Code § 25.00255 Recusal Or Disqualification of Judge](#)

#### **Extract**

The presiding judge: has the authority and shall perform the functions and duties of the presiding judge of the administrative judicial region under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to Subdivisions and , assign a judge to hear and rule on a referred motion of recusal or disqualification; may assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the

presiding judge of the administrative judicial region; may not assign a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification; and if the presiding judge is the subject of the motion of recusal or disqualification, shall sign and file with the clerk an order referring the motion to the chief justice of the supreme court for assignment of a presiding judge of an administrative judicial region, a statutory probate court judge, or a former or retired judge of a statutory probate court to hear and rule on the motion, subject to Subdivisions and.

## **Summary**

Mandatory procedures and authority of the presiding judge regarding motions for recusal or disqualification. It emphasizes the duty to hear or assign a judge to hear such motions, ensuring that the process is handled by a neutral party. This supports the proposition by highlighting the procedural requirements that are meant to ensure impartiality and due process, which the regional judge allegedly failed to follow.

### [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 requirement is directly relevant to the proposition, which discusses procedural irregularities, including the failure to properly handle recusal motions. The passage supports the argument that the regional judge's actions are part of a broader pattern of procedural irregularities by highlighting the mandatory nature of recusal procedures that the judge failed to follow.

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

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

## **Extract**

The law of recusal for judges derives from two basic sources: the Due Process Clause of the Constitution and recusal statutes and codes. Due process has two analogous, but conceptually distinct, applications, both of

which are related to the fairness of the proceeding. First, due process is concerned with the extent of the hearing provided; the greater a litigant's personal stake in the outcome, the more involved the procedures required by due process. Second, and related, is the requirement of a neutral, unbiased arbiter. This includes a range of requirements relating to an adjudicator's impartiality, from "an absence of actual bias" against the parties to the admonitions that "no man shall be a judge in his own case" and that the "possible temptation to the average man as a judge . . .

## **Summary**

The passage highlights the fundamental principles of recusal law, emphasizing the importance of due process and the requirement for a neutral and unbiased arbiter. It underscores that due process is concerned with both the extent of the hearing provided and the impartiality of the adjudicator. This directly supports the proposition that due process requires a fair and impartial tribunal, and when a judge's conduct creates reasonable doubt as to impartiality, recusal is necessary.

### [Pretrial Motions](#)

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

## **Extract**

A motion to recuse is the proper vehicle to challenge any alleged bias of the trial judge in the case. *Sanchez v. State*, 926 S.W.2d 391 (Tex. App.—El Paso 1996, pet. ref'd). In order to recuse a judge, any party may file a motion stating grounds why the judge before whom the case is pending should not sit in the case. Tex.R.Civ.P. 18a(a). 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 filing a motion to recuse a judge in Texas, emphasizing that a hearing must be held if the motion is timely and facially sufficient. This supports the proposition by highlighting the procedural irregularity when such motions are denied without a hearing, as due process requires adherence to these procedures to ensure a fair and impartial tribunal.

### [Pretrial motions](#)

## **Extract**

If a recusal motion is timely filed and facially sufficient, a hearing must be held. Sanchez. Where it is found that a party was erroneously denied the right to a hearing on their motion to recuse, the remedy is to abate the case back to the trial court so that such hearing can be held. Sanchez.

## **Summary**

The passage from the Texas Criminal Lawyer's Handbook outlines the procedural requirement that a hearing must be held if a recusal motion is timely filed and facially sufficient. This supports the proposition by highlighting the procedural irregularity of denying a hearing on recusal motions, which is a key component of the broader pattern of irregularities alleged. The passage also provides a remedy for such procedural failures, which aligns with the proposition's assertion of a failure to provide an adequate appellate remedy.

### [Pretrial Motions](#)

## **Extract**

The procedural requisites for recusal in Rule 18a(a) are mandatory, and a party who fails to conform waives his right to complain of a judge's failure to recuse himself. ... 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). ... If a recusal motion is timely filed and facially sufficient, a hearing must be held. ... Where it is found that a party was erroneously denied the right to a hearing on their motion to recuse, the remedy is to abate the case back to the trial court so that such hearing can be held.

## **Summary**

Mandatory nature of recusal procedures under Rule 18a(a) and emphasizes that a judge must either recuse themselves or request another judge to hear the motion if a sufficient motion is filed. It also highlights the requirement for a hearing if the motion is timely and facially sufficient. This supports the proposition by demonstrating that the failure to follow these mandatory procedures, such as denying a hearing, constitutes a procedural irregularity that undermines the fairness and impartiality required by due process.

## [Pretrial Motions](#)

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

### **Extract**

A motion to recuse is the proper vehicle to challenge any alleged bias of the trial judge in the case. Sanchez v. State, 926 S.W.2d 391 (Tex. App.—El Paso 1996, pet. ref'd). In order to recuse a judge, any party may file a motion stating grounds why the judge before whom the case is pending should not sit in the case. Tex.R.Civ.P. 18a(a). 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 filing a motion to recuse a judge in Texas, emphasizing that a hearing must be held if the motion is timely and facially sufficient. This supports the proposition by highlighting the procedural irregularity of denying recusal motions without a hearing, which is a violation of due process. The passage also underscores the necessity of following proper recusal procedures to ensure a fair and impartial tribunal, aligning with the proposition's argument about the importance of due process under the Texas and U.S. Constitutions.

## [Trial motions](#)

**Texas Criminal Forms - Volume 1-2 - James Publishing - Robert K. Gill, Mark Daniel - 2022-04-02**

### **Extract**

If a recusal motion is timely filed and facially sufficient, a hearing must be held. Sanchez. If the motion to recuse is denied, the standard for review is abuse of discretion, and the denial may be reviewed on appeal from the final judgment. Tex.R.Civ.P. 18a

### **Summary**

Procedural requirements for handling recusal motions in Texas. It specifies that if a recusal motion is timely and facially sufficient, a hearing is mandatory. This directly supports the proposition that the regional judge's actions, such as the summary denial of recusal motions without a hearing, are procedural irregularities. The passage also notes that the denial of a

recusal motion can be reviewed for abuse of discretion, which aligns with the proposition's claim of inadequate appellate remedies.

This memo was compiled by Vincent AI based on vLex materials available as of September 11, 2025. [View full answer on vLex](#)