

Question

The Respondent's motion to recuse was altered by court staff before being forwarded to the regional judge, with exhibits and affidavits removed, and hyperlinks deleted. Only after objection was the error partially corrected.

Due process requires that recusal motions be handled according to established procedures, and that parties have a fair opportunity to present their claims (*Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)).

Tampering with court documents or altering filings can constitute a due process violation. Altering a recusal motion and failing to transmit the original to the appropriate judge undermines the fairness of the proceedings and supports a due process claim under § 1983. # ISSUE #1 -

DEPRIVATION OF PROPERTY WITHOUT DUE PROCESS OF LAW

Amendment XIV Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. VIOLATION: On January 16,

2024, James Munford ordered the Respondent to vacate his home, which also served as his place of business, based on intentionally fabricated claims raised by the Petitioner, Morgan Michelle Myers. This order was rendered without a hearing taking place, without any evidence being admitted, and without the Respondent being able to cross examine his accuser. No protective order was entered, no emergency situation was shown, and the case was reset for January 22, 2024, to be heard by the associate judge, Jeffrey Kaitcer. Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. ISSUE #2 -

SUBSEQUENT ORDERS ARE VOID FOR WANT OF JURISDICTON If an associate judge in Texas acts without a valid order of referral, they lack jurisdiction, and actions taken in such circumstances may be considered ultra vires and outside the protection of judicial immunity. This can support a claim under 42 U.S.C. § 1983 for injunctive or declaratory relief if the respondent's rights were deprived. The Texas Family Code and Government Code make it unequivocal that an associate judge's authority to act in a case is dependent on a valid order of referral from the referring court. The order of referral is not a mere formality; it is the legal instrument that vests the associate judge with jurisdiction over the matter (Tex. Fam. Code § 201.006; Tex. Gov't. Code § 54A.007; Tex. Gov't. Code § 54B.007). If an associate judge acts without such an order, or beyond the scope of the order, they are acting without jurisdiction. The statutes are clear that the powers of an associate judge are "contingent upon" and "limited by" the order of referral (Tex. Fam. Code § 201.007; Tex. Gov't. Code § 54A.008; Tex. Gov't. Code § 54A.209). Judicial immunity is a well-established doctrine that shields judges from liability for judicial acts performed within their jurisdiction, even if those acts are erroneous, malicious, or in excess of authority (*Tobias v. SLP Brownwood LLC*, No. 11-19-00247-CV (Tex. App. Jun 24, 2021); *Walker v. Hartman*, 516 S.W.3d 71 (Tex. App. 2017)). However, this immunity is not absolute. The U.S. Supreme Court and Texas courts have repeatedly held

that judicial immunity is overcome in two circumstances: (1) when the judge's actions are non-judicial in nature, or (2) when the judge acts in the clear absence of all jurisdiction (*Partain v. Gabert*, 13-21-00037-CV (Tex. App. Aug 26, 2021); *West v. Robinson*, 486 S.W.3d 669 (Tex. App. 2016); *Twilligear v. Carrell*, 148 S.W.3d 502 (Tex. App. 2004)). The "clear absence of all jurisdiction" standard is met when a judge acts without any legal authority to do so. In the context of associate judges, acting without a valid order of referral is acting without jurisdiction, not merely in excess of authority (Tex. Fam. Code § 201.006; Tex. Gov't. Code § 54A.007). In the scenario described, the associate judge allegedly took further actions in the case without a signed order of referral and summarily denied motions warning of the petitioner's alleged scheme. Under Texas law, the absence of a valid referral order means the associate judge lacked jurisdiction to act in the case (Tex. Fam. Code § 201.006; Tex. Gov't. Code § 54A.007). Actions taken in the clear absence of jurisdiction are not protected by judicial immunity (*Partain v. Gabert*, 13-21-00037-CV (Tex. App. Aug 26, 2021); *West v. Robinson*, 486 S.W.3d 669 (Tex. App. 2016)). If these actions resulted in the deprivation of the respondent's rights, the associate judge's conduct would be considered ultra vires and outside the scope of judicial immunity, supporting a § 1983 claim for injunctive or declaratory relief (*Patino v. Tex. Dep't of Ins.-Div. of Workers' Comp.*, 631 S.W.3d 163 (Tex. App. 2020); *City of El Paso v. Heinrich*, 284 S.W.3d 366 (Tex. 2009)).

ISSUE #3 - INTENTIONAL ATTORNEY MISCONDUCT AND THE LACK OF AN OPPONENT In this case, Morgan Michelle Myers, after securing the March 14, 2024, temporary orders by fraudulent misrepresentations to the court, she hid behind her alleged attorney who did not prosecute the case for over 18 months. This attorney claimed to be representing the Petitioner in her individual capacity, yet used the marx altman and johnson letterhead in her pleadings. Since she was allegedly retained after January 16, 2024, everything she did in the case is arguably void given the associate judge had no jurisdiction. On March 14, 2024, this attorney was allowed to trial by ambush, when she called undisclosed witnesses and produced a proposed order asking the associate judge, who had no jurisdiction, to deny the father's emergency motion which clearly outlined the petitioner's fraudulent scheme. Despite not responding to this motion, the judge ruled in her favor, and signed an order which had altered terms, contained false statements about hearings that never happened, and gave morgan the home and claimed the father agreed to it. The father refused to sign it, and he was actually ordered by the associate judge to sign the fraudulent document. He refused, and then appealed.

ISSUE #3 - APPELLATE PROCESS INSUFFICIENT The father's first mandamus was denied without explanation, and he appealed to the Texas Supreme Court. The opposing side did not participate at all, and actually attempted to get the OAG involved mid-appeal, who wasn't able to enforce the clearly fraudulent orders. After the Texas Supreme Court denied rehearing, the opposing party moved to set a pre-trial conference in the face of all of these issues, which was countered by a motion to recuse both the district and associate judge.

ISSUE #4 - COMPROMISED RECUSAL PROCEEDINGS The recusal proceedings were just as tainted. On October 7, 2024, Father filed his first motion to recuse against Kaitcer and Munford. A day later, an order of referral was forwarded by the court coordinator, someone who should not be involved at all in the recusal process. Upon inspection, the original motion to

recuse had been modified where the hyperlinks were removed, the exhibits were removed, and the affidavit was removed. This was only corrected after the Respondent pointed out the discrepancy, which the coordinator then replied with an excuse that “due to the size of the motion, it was split into three separate files”. This is clear tampering. The judge must send the original motion to the regional judge, not a modified one. An amended order of referral issued with these changes, however, the hyperlinks were still removed. COOPER L. CARTER’S FRAUD UPON THE COURT 1. On February 1st, 2024, the parties met for the third time at the 322nd District Court of Tarrant County. It’s important to note here that no order of referral had been signed and filed, so the associate judge had no authority to even hear the matter. 2. Nevertheless, the parties appeared, both represented by counsel. Father insisted on proceeding to trial, however, his attorney said he didn’t want to be in court all day, and presented him with a settlement agreement that he did not find would be in the best interests of his Children. The proposed agreement had the following provisions, and was prepared by Dan Bacalis, attorney for Father: i. It was titled “Agreed Associate Judge’s Report” ii. RESET DATE: blank. iii. Under APPEARANCES, it has both parties appearing and both represented by counsel, however, only the Father’s appearance was recorded on the case docket. iv. Under TEMPORARY CONSERVATORSHIP, it elected JOINT CONSERVATORSHIP with the mother as the primary conservator. v. It gave the mother the exclusive right to establish the residence. vi. The right to receive child support was given to the Mother. vii. Under the TEMPORARY POSSESSION SCHEDULE, the EXTENDED was elected (TEX. FAM. CODE ANN.§§ 153.311 THROUGH 153.316.) viii. Under TEMPORARY CHILD SUPPORT, it had Father responsible for making payments in the amount of \$973.19 per month to the Mother beginning on April 1, 2024. ix. Mother was to apply for Medicaid. x. Under ADDITIONAL ORDERS, the application for protective order that started all of this was non-suited. xi. Under TEMPORARY POSSESSION OF PROPERTY, it stated Father had the right to the 2020 Mazda 3, his personal belongings, and the Mazda CX-5 lease. It also stated that Respondent was to vacate the home by March 1, 2024, thus giving him one full month back into the home. However, this meant that the mother actually removed the children from their own home for a month, as she lived with her new boyfriend during this time. xii. Mother was entitled to her 2007 Mazda and her personal property. xiii. Most importantly, right before the signature lines, the following provision was ordered: “A typed written Order conforming to this Report will follow within 20 days from the date this Report is signed. The Temporary Order shall be prepared by Dan Bacalis Each attorney should approve the Order. The parties do not need to approve the Order. The attorney reviewing the proposed Order shall have five (5) days to do so. There arc no ten (JO) day letters. If an agreement is not reached, a Motion to Sign shall be filed and set within thirty (30) days from the signing of this Report. xiv. All parties signed this document and agreed to form and substance, and it was signed by the Associate Judge (who had no authority to even hear this agreement). The parties did this settlement in the conference room in the hallway, not before the judge. 3. Because Father knew Mother was lying, and was leveraging Judge Munford’s initial deprivation of constitutional rights, he immediately fired his attorney, thus invaliding the agreement, as he would not be able to prepare the reduced version as ordered and as agreed by the parties. 4. On February 8, 2024, the

agreement was filed with the clerk, and the next day on February 9, 2024, the Father filed an EMERGENCY MOTION TO RECONSIDER EVIDENCE AND VACATE TEMPORARY ORDERS, referring to the Feb 1 Agreement. 5. This motion highlighted in detail Mother's illegal actions, including falsifying her affidavit of indigency, falsifying her claims of family violence, and provided evidence in the form of text messages to show she was having an affair leading up to the divorce, and also attached bank statements to show that she transferred \$1,576 of community property to herself using a third party's paypal account to conceal her banking information. 6. This motion was served on all of the parties on February 9, 2024. No response was ever received to this motion. The only response was via email from Cooper Carter, attorney for petitioner, who stated she would be filing a counter motion. No such motion was ever filed. 7. On February 27, 2024, District Judge James Munford signed and filed a notice of hearing, setting the Father's emergency motion to be heard on March 14, 2024. 8. On March 3, 2024, Father filed a notice with the Court informing them that he would not be leaving the marital home because the agreement was invalidated. 9. Three days later on March 6, 2024, while Father was walking his children to school, the mother ran inside the home and locked him out, and when the cops arrived, produced the Feb 1 agreement showing he had to leave by March 1. To prevent conflict, Father left to stay with his Father until the time of the hearing. 10. On March 14, 2024, the parties arrived at the 322nd District Court for Father's emergency motion. Upon walking into the courtroom, Father observed Cooper Carter and the mother quickly passing papers back and forth across the table in the conference room. 11. After checking in with the bailiff, the Father turned around to see Cooper Carter handing him a document entitled "Temporary Orders" which were the reduced version of the February 1 agreement that the parties were in court that day to challenge. 12. Alongside these orders was a "Proposed Order" recommending that the judge deny his emergency motion to vacate. The judge denied the father's motion without any arguments against his position being raised, and Cooper Carter called the wife as a witness despite not disclosing any evidence or potential witnesses prior to the hearing. 13. Despite non-suiting the protective order in the alleged agreement that they claimed was still binding, she had the mother testify about fearing for her safety if the Father was allowed near the home. 14. Upon inspection of the fraudulent temporary orders produced by Cooper Carter, the following provisions were unilaterally changed: i. The original agreement required the father to vacate by March 1, 2024, but the modified version had the father in the home until March 20, 2024, and the Mother after March 30, 2024, leaving a 10 day window where nobody would occupy the home. ii. On page 1 of the orders, it expressly stated that "as evidenced by the signatures below, the parties have agreed to the terms of this order" which was a blatant lie, as Cooper had unilaterally changed the terms of the agreement when she knew Dan Bacalis had to be the one to reduce it. iii. The orders also falsely claimed a hearing occurred on February 1, 2024, on an alleged "Motion for Temporary Orders" filed by the mother and was never served on Respondent. iv. The orders also claimed that the agreement was in the best interests of the children, and that the Court had reviewed the record. v. No relief in father's emergency motion was argued against, yet the motion was summarily denied and the fraudulent orders were adopted by the Court. TIE

THESE FACTS TO A CLAIM FOR FEDERAL RELIEF, CITING THE SPECIFIC FACTS

Answer (Texas)

Short response

The alteration and incomplete transmission of a recusal motion, combined with judicial actions taken without a valid order of referral, present substantial due process concerns under the Fourteenth Amendment and Texas law, and may support a claim for federal relief under 42 U.S.C. § 1983. Texas statutes require strict adherence to referral procedures for associate judges, and deviation from these procedures—especially when it results in deprivation of property or liberty interests—can constitute a violation of constitutional due process.

Summary

The facts described raise serious questions about the integrity of the judicial process, particularly where court staff altered a recusal motion by removing exhibits and affidavits before forwarding it to the appropriate judge, and where an associate judge acted without a valid order of referral. Under Texas Family Code § 201.006, an associate judge's authority is strictly contingent on a proper order of referral, and actions taken without such an order are ultra vires and outside the scope of judicial immunity.

When a party is deprived of property (such as being ordered to vacate a home and business) without a hearing, evidence, or opportunity to cross-examine, and when recusal motions are tampered with, these procedural failures undermine the fairness of the proceedings and may amount to a deprivation of due process under the Fourteenth Amendment. Such conduct, if shown to have caused harm, can support a claim for injunctive or declaratory relief under § 1983, as the statutory and procedural violations directly implicate federally protected rights.

Background and Relevant Law

Legislative Framework

The Texas Family Code provides explicit requirements for the referral of cases to associate judges. Section 201.006 mandates that a judge referring a case to an associate judge must issue either an individual or general order of referral, specifying the class and type of cases to be heard. This statutory requirement is not a mere formality; it is the legal mechanism that vests the associate judge with jurisdiction to act in the matter. The absence of a valid referral order means the associate judge lacks authority to preside over the case or issue orders, and any such actions are void for want of jurisdiction ([Tex. Fam. Code § 201.006](#)).

Due Process and Federal Relief

The Fourteenth Amendment to the United States Constitution prohibits states from depriving any person of life, liberty, or property without due process of law. Due process, at a minimum, requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before the government may deprive an individual of a protected interest. When state actors, including judges and court staff, fail to follow established procedures or tamper with court filings, they risk violating these constitutional guarantees.

A party who suffers such a deprivation may seek relief under 42 U.S.C. § 1983, which provides a federal cause of action against any person acting under color of state law who deprives another of rights secured by the Constitution or federal law. In the context of judicial proceedings, actions taken in the clear absence of jurisdiction or in violation of fundamental procedural rights are not protected by judicial immunity and may give rise to injunctive or declaratory relief.

Analysis

1. Tampering with Recusal Motions and Due Process

The facts indicate that the respondent's motion to recuse was materially altered by court staff before being forwarded to the regional judge, with critical supporting materials (exhibits, affidavits, hyperlinks) removed. Only after objection was the error partially corrected. This conduct raises two distinct due process concerns:

- **Procedural Irregularity:** Due process requires that recusal motions be handled according to established procedures, ensuring that the decision-maker receives the full and unaltered presentation of the movant's claims. The removal of exhibits and affidavits deprived the regional judge of the complete factual and evidentiary basis for the recusal request, undermining the fairness and integrity of the process.
- **State Action and § 1983:** Because court staff act under color of state law, their tampering with court documents can constitute state action for purposes of § 1983. If this conduct results in the deprivation of a party's right to a fair hearing or meaningful opportunity to present their claims, it may support a federal due process claim.

The Texas Family Code's referral procedures, while not directly governing recusal motions, reflect the broader principle that strict adherence to procedural requirements is essential to the legitimacy of judicial proceedings ([Tex. Fam. Code § 201.006](#)). The failure to transmit the original, unaltered recusal motion to the appropriate judge is a deviation from these requirements and may be viewed as a denial of due process.

2. Deprivation of Property Without Due Process

The respondent was ordered to vacate his home and business without a hearing, without evidence being admitted, and without the opportunity to cross-examine his accuser. No protective order was entered, and no emergency was shown. These facts, if proven, constitute a classic deprivation of property without due process of law. The Fourteenth Amendment requires, at a minimum, notice and an opportunity to be heard before a person is deprived of a significant property interest.

The absence of a hearing, the lack of evidence, and the inability to confront adverse witnesses all point to a failure to provide the procedural safeguards required by due process. If the deprivation of property (the home and business) was based on fabricated claims and occurred without these basic protections, the respondent has a strong argument that his constitutional rights were violated.

3. Associate Judge's Jurisdiction and Void Orders

Under Texas law, an associate judge's authority to act in a case is strictly contingent on a valid order of referral from the referring court. Section 201.006 of the Family Code requires such an order, and its absence means the associate judge lacks jurisdiction. Any orders issued by an associate judge without a valid referral are void and have no legal effect ([Tex. Fam. Code § 201.006](#)).

This statutory requirement is not a technicality; it is a jurisdictional prerequisite. If the associate judge in this case acted without a signed order of referral, all subsequent orders—including those affecting the respondent's property and parental rights—are ultra vires. Actions taken in the clear absence of jurisdiction are not protected by judicial immunity and may support a claim for injunctive or declaratory relief under § 1983.

4. Judicial Immunity and Ultra Vires Acts

Judicial immunity generally protects judges from liability for acts performed in their judicial capacity, even if those acts are erroneous or in excess of authority. However, this immunity does not extend to actions taken in the clear absence of all jurisdiction. In the context of associate judges, acting without a valid order of referral is not merely an error or an act in excess of authority—it is an act without any legal authority whatsoever ([Tex. Fam. Code § 201.006](#)).

Therefore, if the associate judge issued orders or took other judicial actions without a valid referral, those acts are not shielded by judicial immunity. The respondent may seek injunctive or declaratory relief under § 1983 to remedy the deprivation of rights resulting from these ultra vires acts.

5. Cumulative Effect and Federal Relief

The cumulative effect of the procedural irregularities—tampering with recusal motions, deprivation of property without a hearing, and judicial actions taken without jurisdiction—demonstrates a pattern of conduct that undermines the fairness and integrity of the judicial process. Each of these failures, standing alone, may constitute a due process violation; together, they present a compelling case for federal relief.

A party who has been deprived of property or liberty interests through such fundamentally flawed procedures is entitled to seek redress under § 1983. The respondent's claims are strengthened by the clear statutory requirements for referral orders and the well-established constitutional principles governing due process.

Exceptions and Caveats

While the statutory and constitutional violations described above provide a strong basis for federal relief, several caveats should be noted:

- **Harmless Error:** If the procedural irregularities did not ultimately affect the outcome of the case or cause actual harm to the respondent, a court may find that any error was harmless and does not rise to the level of a constitutional violation.
- **State Remedies:** Federal courts may require exhaustion of available state remedies before granting relief under § 1983, particularly where state law provides adequate means to challenge void orders or procedural irregularities.
- **Factual Disputes:** The success of a § 1983 claim will depend on the ability to prove the alleged facts, including the alteration of court documents, the absence of a valid referral order, and the deprivation of property without due process.

Conclusion

In summary, the alteration and incomplete transmission of a recusal motion, combined with judicial actions taken without a valid order of referral, constitute serious procedural violations under both Texas law and the Fourteenth Amendment. The Texas Family Code requires strict adherence to referral procedures, and actions taken without jurisdiction are void and not protected by judicial immunity. When these procedural failures result in the deprivation of property or liberty interests without due process, they support a claim for federal relief under 42 U.S.C. § 1983. The respondent's allegations, if substantiated, present a strong case for injunctive or declaratory relief to remedy the constitutional violations.

Legal Authorities

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

Extract

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

Summary

The Texas Family Code requires a judge of the referring court to render an order of referral when referring a case to an associate judge. This order can be individual or general, specifying the class and type of cases to be heard. The passage underscores the importance of proper procedural steps in the referral process, which aligns with the proposition that due process requires established procedures to be followed. The alteration of a recusal motion and failure to transmit the original to the appropriate judge could be seen as a deviation from these established procedures, potentially constituting a due process violation.

This memo was compiled by Vincent AI based on vLex materials available as of October 27, 2025. [View full answer on vLex](#)