

Question

In Texas, if a party objects to an associate judge in a counter-petition for divorce and subsequently files an emergency motion to vacate challenging the associate judge's report, does the judge have subject matter jurisdiction to hear the emergency motion?

Answer (Texas)

Short response

In Texas, once a party objects to an associate judge in a divorce proceeding and then files an emergency motion to vacate the associate judge's report, only the referring court—not the associate judge—has subject matter jurisdiction to hear and decide the emergency motion. This is mandated by statute and confirmed by controlling case law.

Summary

Texas law strictly limits the authority of associate judges in family law matters, especially when a party has objected to their involvement. After such an objection, the referring court (the district or statutory county court) retains exclusive jurisdiction over substantive matters, including emergency motions to vacate an associate judge's report or recommendations.

Both statutory provisions and appellate decisions make clear that associate judges cannot hear or rule on postjudgment relief motions, such as motions to vacate, once an objection has been lodged. The referring court must handle these motions, ensuring that parties' rights to a de novo hearing and to judicial review are preserved.

Background and Relevant Law

Legislative Framework

The Texas Family Code and Texas Government Code provide the statutory structure for the appointment, powers, and limitations of associate judges in family law cases.

Powers and Limitations of Associate Judges:

Section 201.007 of the Texas Family Code outlines the general powers of associate judges, including the ability to conduct hearings, hear evidence, and make recommendations. However, these powers are expressly subject to limitations, including the right of parties to object to the associate judge presiding over the trial on the merits or a jury trial. If such an objection is made, the referring court must preside over the trial ([Tex. Fam. Code § 201.007; Caballero v. Vig, 600 S.W.3d 452 \(Tex. App. 2020\)](#)).

Exclusive Authority of Referring Court for Postjudgment Relief:

Section 201.104 of the Texas Family Code is explicit: only the referring court may hear and render an order on a motion for postjudgment relief, including a motion to vacate, correct, or reform a judgment ([Tex. Fam. Code § 201.104](#)). This provision is reinforced by the Texas Supreme Court, which has held that associate judges lack jurisdiction to hear such motions ([Office of the Attorney Gen. of Tex. v. C.W.H., 531 S.W.3d 178 \(Tex. 2017\)](#)).

Jurisdiction of District and Statutory County Court Judges:

Section 74.094 of the Texas Government Code provides that a district or statutory county court judge may hear and determine any matter pending in any such court within the county, regardless of whether the matter is preliminary or final, or whether there is a judgment in the matter ([Tex. Gov't. Code § 74.094](#)). This broad grant of authority ensures that the referring court judge has jurisdiction to hear emergency motions, including those to vacate an associate judge's report.

De Novo Hearings and Judicial Action on Associate Judge's Reports:

Section 201.014 of the Family Code and Section 54A.115 of the Government Code provide that parties may request a de novo hearing before the referring court on the associate judge's proposed order or judgment. The referring court may adopt, modify, or reject the associate judge's recommendations, hear further evidence, or recommit the matter to the associate judge for further proceedings ([Tex. Fam. Code § 201.014; Tex. Gov't. Code § 54A.115](#)).

Case Law

Objection to Associate Judge and Jurisdictional Consequences:

The Texas Supreme Court and Courts of Appeals have consistently held that when a party objects to an associate judge presiding over the trial, the referring court must hear the trial on the merits ([In re Interest of A.L.M.-F., 593 S.W.3d 271 \(Tex. 2019\); Caballero v. Vig, 600 S.W.3d 452 \(Tex. App. 2020\)](#)). The associate judge is divested of authority to act on the merits of the case, and the referring court assumes exclusive jurisdiction.

Authority to Hear Motions to Vacate:

The Texas Supreme Court in [Office of the Attorney Gen. of Tex. v. C.W.H., 531 S.W.3d 178 \(Tex. 2017\)](#) confirmed that only the referring court may hear and render orders on motions for postjudgment relief, including motions to vacate. This is a statutory limitation that cannot be circumvented by the parties or the associate judge.

Nature of Associate Judge's Orders:

Associate judges' orders are generally recommendations or proposed orders, not final judgments, except in limited circumstances specified by statute ([Gerke v. Kantara, 492 S.W.3d 791 \(Tex. App. 2016\); Graham v. Graham, 414 S.W.3d 800 \(Tex. App. 2013\)](#)). These recommendations do not become final or appealable until adopted by the referring court.

Jurisdiction of Referring Court Unaffected by Procedural Lapses:

Even if the referring court fails to act within certain statutory timeframes, such as hearing an appeal from an associate judge's report within 30 days, this does not deprive the court of jurisdiction ([Lopez v. Lopez, 995 S.W.2d 896 \(Tex. App. 1999\)](#)).

Assignment and Disqualification of Judges:

If a party files a timely objection to an assigned or associate judge, the disqualification is automatic, and the judge is prohibited from hearing the case ([In re Moore, NUMBER 13-19-00551-CV \(Tex. App. Dec 19, 2019\)](#)).

Analysis

Effect of Objection to Associate Judge

When a party objects to an associate judge in a divorce proceeding, Texas law is clear that the associate judge is divested of authority to preside over the trial on the merits. The referring court must then hear the trial ([Tex. Fam. Code § 201.005; Caballero v. Vig, 600 S.W.3d 452 \(Tex. App. 2020\); In re Interest of A.L.M.-F., 593 S.W.3d 271 \(Tex. 2019\)](#)). This objection also extends to any substantive matters arising from the associate judge's report or recommendations, including emergency motions to vacate.

Jurisdiction Over Emergency Motions to Vacate

Section 201.104 of the Family Code is unequivocal: only the referring court may hear and render an order on a motion for postjudgment relief, which includes a motion to vacate. The Texas Supreme Court has interpreted this provision to mean that associate judges lack subject matter jurisdiction over such motions ([Office of the Attorney Gen. of Tex. v. C.W.H., 531 S.W.3d 178 \(Tex. 2017\)](#)). This statutory limitation is not subject to waiver or modification by the parties.

The referring court's jurisdiction is further supported by Section 74.094 of the Government Code, which authorizes district and statutory county court judges to hear and determine any matter pending in their courts, including emergency motions, regardless of whether the matter is preliminary or final ([Tex. Gov't. Code § 74.094; In re Nash, 13 S.W.3d 894 \(Tex. App. 2000\)](#)).

Nature of Associate Judge's Report and the Role of the Referring Court

Associate judges' reports are not final orders unless and until adopted by the referring court, except in limited circumstances not applicable here ([Gerke v. Kantara, 492 S.W.3d 791 \(Tex. App. 2016\); Graham v. Graham, 414 S.W.3d 800 \(Tex. App. 2013\)](#)). The referring court retains the power to adopt, modify, reject, or recommit the associate judge's recommendations ([Tex. Fam. Code § 201.014](#)). This means that any challenge to the associate judge's report, including an emergency motion to vacate, must be addressed by the referring court.

De Novo Hearings and Broader Jurisdiction

A party dissatisfied with an associate judge's report may request a de novo hearing before the referring court ([Tex. Gov't. Code § 54A.115](#)). The referring court's jurisdiction to hear such matters is not limited by the issues specified in the request for de novo hearing; rather, the court retains broad authority to address all matters arising from the associate judge's report ([Mayorga v. Mayorga, NO. 03-13-00783-CV \(Tex. App. May 08, 2015\)](#)).

Assignment and Disqualification

If a party objects to an assigned or associate judge, the disqualification is automatic, and the judge is prohibited from hearing the case ([In re Moore, NUMBER 13-19-00551-CV \(Tex. App. Dec 19, 2019\)](#)). This principle applies equally to emergency motions to vacate, as the associate judge is no longer authorized to act in the case once an objection is filed.

Jurisdiction Not Lost by Procedural Lapses

Even if the referring court fails to act within certain statutory timeframes, such as hearing an appeal from an associate judge's report within 30 days, this does not deprive the court of jurisdiction ([Lopez v. Lopez, 995 S.W.2d 896 \(Tex. App. 1999\)](#)). Thus, the referring court retains authority to hear and decide emergency motions to vacate, regardless of procedural delays.

Exceptions and Caveats

There are limited exceptions where an associate judge may render final orders, such as agreed orders, default orders, or cases involving waivers of notice or appearance, as specified in Section 201.007 of the Family Code. However, these exceptions do not apply where a party has objected to the associate judge's involvement in the trial on the merits ([Tex. Fam. Code § 201.007; Graham v. Graham, 414 S.W.3d 800 \(Tex. App. 2013\)](#)). In the scenario presented—where a party has objected and then files an emergency motion to vacate—the associate judge's authority is extinguished, and only the referring court may act.

It is also important to note that the referring court's jurisdiction is not limited by the issues specified in a request for de novo hearing; the court retains broad authority to address all matters arising from the associate judge's report ([Mayorga v. Mayorga, NO. 03-13-00783-CV \(Tex. App. May 08, 2015\)](#)).

Conclusion

In summary, Texas law is clear that once a party objects to an associate judge in a divorce proceeding, the associate judge is divested of authority to act on the merits of the case. Any subsequent emergency motion to vacate the associate judge's report must be heard and decided by the referring court, which retains exclusive subject matter jurisdiction over such motions. This framework is mandated by statute and confirmed by controlling appellate decisions, ensuring that parties' rights to judicial review and due process are protected. The associate judge cannot hear or rule on the emergency motion to vacate under these circumstances.

Legal Authorities

[Mayorga v. Mayorga, NO. 03-13-00783-CV \(Tex. App. May 08, 2015\)](#)

Texas Court of Appeals

Extract

An associate judge may conduct hearings, make findings of fact, formulate conclusions of law, and recommend an order to be rendered. Tex. Fam. Code § 201.007(a); see id. § 201.005(a) (trial court may refer to associate judge 'any aspect' of suits affecting marriage relationship, including divorce and post-decree proceedings, suits related to family violence, and suits affecting parent-child relationship). A party to an associate judge's hearing may request a de novo hearing before the court that referred the matter to the associate judge. Id. § 201.015. A request for a de novo hearing must specify the issues to be addressed. Id. § 201.015(b). Section 201.015 limits the requesting party's 'ability to raise issues he has not specifically appealed' but 'is not a limit on the referring court's jurisdiction.'

Summary

The passage explains that an associate judge in Texas can conduct hearings and make recommendations, but a party can request a de novo hearing before the referring court. Importantly, while the request for a de novo hearing limits the issues that can be raised, it does not limit the jurisdiction of the referring court. This implies that the referring court retains jurisdiction over the case, including the ability to hear motions such as an emergency motion to vacate.

[Robles v. Robles, 965 S.W.2d 605 \(Tex. App. 1998\)](#)

Texas Court of Appeals

Extract

Gus contends the associate judge did not prepare a written report, and therefore did not provide the parties with notice of the substance of his report. We disagree. Although a master's report must be in writing, former section 54.010(b) provided that it could consist of a notation on the trial court's docket sheet. In the instant case, the associate judge made such a notation. At the hearing on November 30, 1993, the associate judge pronounced the substance and details of his findings and recommendations in open court and on the record. Irene was present with counsel but Gus chose not to attend this hearing. We do not agree that Gus should now be allowed to claim error when his unexplained, voluntary absence allegedly prevented him from receiving the substance of the master's report.

Summary

An associate judge's report can be considered valid if it is noted on the trial court's docket sheet and pronounced in open court, even if a party is absent. This suggests that the associate judge's actions were within jurisdiction, as the report was properly documented and announced.

[In re Interest of A.L.M.-F., 593 S.W.3d 271 \(Tex. 2019\)](#)

Texas Supreme Court

Extract

To alleviate pressure on an overburdened court system, the Legislature allows judges in civil proceedings to refer cases to associate judges for disposition of a variety of case-related matters, including trials on the merits. Referral is not binding on the parties, so if either party timely objects, the referring court 'shall hear the trial on the merits or preside at a jury trial.' Barring an objection, however, the associate judge may determine the merits in either a bench or a jury trial, subject to the parties' post-trial right to request a 'de novo hearing' before the referring court within thirty days.

Summary

The passage explains that if a party objects to an associate judge hearing a trial on the merits, the referring court must hear the trial. This implies that the associate judge would not have jurisdiction to hear the case if there is a timely objection. Furthermore, the passage indicates that parties have the right to request a de novo hearing before the referring court, which suggests that the referring court retains jurisdiction over the matter if an objection is made.

[Alwazzan v. Alwazzan, 596 S.W.3d 789 \(Tex. App. 2018\)](#)

Texas Court of Appeals

Extract

Under the circumstances of this case, the associate judge was not statutorily authorized to sign a final order, and Winnie's nonsuit alone cannot convert the associate judge's report into a final order. The associate judge's report was just that, a report. See TEX. FAM. CODE § 201.011(a), (b) (providing that 'associate judge's report may contain the associate judge's findings, conclusions, or recommendations' and '[a]fter a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report'); see also TEX. FAM. CODE § 201.007(a)(10) (providing that associate judge

may 'recommend an order to be rendered in a case').

Summary

An associate judge's report is not a final order unless certain statutory conditions are met. The associate judge can only make recommendations, and the referring court has the authority to adopt, modify, or reject these recommendations. This suggests that the associate judge does not have the jurisdiction to hear an emergency motion to vacate if it challenges the report itself, as the report is not a final order.

[Lopez v. Lopez, 995 S.W.2d 896 \(Tex. App. 1999\)](#)

Texas Court of Appeals

Extract

Rather, we find a referring court's failure to hear an appeal from the report of an associate judge within 30 days, as required by the Family Code, does not deprive the referring court of jurisdiction.

Summary

Even if a referring court fails to hear an appeal from an associate judge's report within the 30-day period specified by the Texas Family Code, this does not deprive the court of jurisdiction. This suggests that the court retains jurisdiction to hear matters related to the associate judge's report, including potentially an emergency motion to vacate, even if procedural timelines are not strictly adhered to.

[Graham v. Graham, 414 S.W.3d 800 \(Tex. App. 2013\)](#)

Texas Court of Appeals

Extract

Associate judges do not have the power to render final judgment outside the context of certain limited exceptions listed in section 201.007 of the Family Code. ... Except when authorized by section 201.007, an associate judge's proposed orders or recommendations have only temporary effect, pending appeal to the referring trial court. ... Because the contempt order at issue in this appeal was not adopted by the referring court as a matter of law, the referring court retains the power to alter the order, reject it, or conduct further proceedings.

Summary

Associate judges in Texas do not have the power to render final judgments except in specific circumstances outlined in section 201.007 of the Family Code. Their orders are temporary and subject to appeal to the referring trial court. If the referring court has not adopted the associate judge's order, it retains the power to alter, reject, or conduct further proceedings on the matter. This suggests that the referring court, not the associate judge, would have jurisdiction to hear an emergency motion to vacate challenging the associate judge's report.

[Zavala v. Carrera, NUMBER 13-18-00217-CV \(Tex. App. Jul 11, 2019\)](#)

Texas Court of Appeals

Extract

Whether a trial court has jurisdiction is a question of law that we review de novo. Harris County v. Annab, 574 S.W.3d 609, 612 (Tex. 2018). Associate judges are appointed by a judge of a district or statutory county court to a full-time or part-time position serving a particular court. See TEX. GOV'T CODE ANN. §§ 54A.101, 54A.102. A person does not have to have been an elected judge to qualify as an associate judge. See id. § 54A.103. The ruling of an associate judge is subject to de novo review. See id. § 54A.115. A party can file a written objection concerning the appointment of an associate judge hearing a trial on the merits or presiding at a jury trial no later than the tenth day after the party receives notice that the associate judge will hear the trial. Id. § 54A.106.

Summary

The passage provides information on the process for objecting to an associate judge and the de novo review of their rulings. It indicates that a party can object to an associate judge within ten days of receiving notice, and that the associate judge's rulings are subject to de novo review. This suggests that the trial court has jurisdiction to review the associate judge's decisions, including emergency motions to vacate, as part of the de novo review process.

[Zavala v. De Hoyos, NUMBER 13-18-00612-CV \(Tex. App. Jul 18, 2019\)](#)

Texas Court of Appeals

Extract

By his second issue, which we address first, appellant argues that the trial court lacked subject matter jurisdiction to dismiss the case because appellant objected to the appointment of an associate judge. Associate judges are appointed by a judge of a district or statutory county court to a full-time or part-time position serving a particular court. See TEX. GOVT CODE ANN. §§ 54A.101, 54A.102. A person does not have to have been an elected judge to qualify as an associate judge, and the ruling of an associate judge is subject to de novo review. See *id.* §§ 54A.103, 54A.115. A party can file a written objection to any associate judge hearing a trial on the merits or presiding at a jury trial no later than the tenth day after the party receives notice that the associate judge will hear the trial. *Id.* § 54A.106.

Summary

The passage provides information on the process of objecting to an associate judge in Texas and the implications for subject matter jurisdiction. It indicates that a party can object to an associate judge's involvement in a trial, which may affect the jurisdiction of the trial court. The passage also notes that the ruling of an associate judge is subject to de novo review, suggesting that the trial court retains jurisdiction to review the associate judge's decisions.

[Caballero v. Vig.](#) 600 S.W.3d 452 (Tex. App. 2020)

Texas Court of Appeals

Extract

Section 201.005 of the Texas Family Code provides that a judge of a court may refer any aspect of a suit to an associate judge, including a trial on the merits, unless a party files a written objection to allowing the associate judge to hear the trial. Tex. Fam. Code Ann. § 201.005(a)(b). 'If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.' *Id.* § 201.005(c).

Summary

The passage from the Texas Family Code indicates that if a party files a written objection to an associate judge hearing the trial, the referring court must hear the trial on the merits. This suggests that the associate judge would not have jurisdiction to hear matters related to the trial, such as an emergency motion to vacate, if an objection has been filed.

[In re Moore, NUMBER 13-19-00551-CV](#) (Tex. App. Dec 19, 2019)

Texas Court of Appeals

Extract

Section 74.053 of the Texas Government Code governs objections to the assignment of trial judges. See TEX. GOVT CODE ANN. § 74.053. If a properly filed objection under this statute is timely, 'the assigned judge's disqualification is automatic.' *In re Canales*, 52 S.W.3d 698, 701 (Tex. 2001) (orig. proceeding); see *id.* § 74.053(b) (stating that 'the judge shall not hear the case'); *Flores v. Banner*, 932 S.W.2d 500, 501 (Tex. 1996) (orig. proceeding) (per curiam) ('When a party files a timely objection to an assigned judge under section 74.053 of the Texas Government Code, the assigned judge's disqualification is mandatory.'); see also *In re Honea*, 415 S.W.3d 888, 890 (Tex. App.—Eastland 2013, orig. proceeding).

Summary

If a party files a timely objection to an assigned judge under Section 74.053 of the Texas Government Code, the disqualification of the assigned judge is automatic. This means that the judge is not permitted to hear the case. This provision is generally applicable to cases involving objections to assigned judges in Texas.

[In re A.C.](#)

Texas Court of Appeals

Extract

The Texas Family Code allows a judge to refer certain matters, including a suit affecting the parent-child relationship, to an associate judge for a ruling. Tex. Fam. Code Ann. § 201.005(a) (West 2023). The associate judge must issue a proposed order or judgment containing the associate judge's findings, conclusions, or recommendations. *Id.* § 201.011(a) (West 2023). Thereafter, a party may request a de novo hearing before the referring court by filing a written request within three days of receiving notice of the associate judge's order. *Id.* § 201.015(a) (West 2023). If properly requested, the de novo hearing is mandatory.

Summary

Process by which a party can challenge an associate judge's order by requesting a de novo hearing before the referring court. This suggests that the referring court retains jurisdiction to hear such challenges if a de novo hearing is properly requested. However, the passage does not directly address whether the judge has subject matter jurisdiction to hear an emergency motion to vacate specifically, but it implies that the referring court has jurisdiction over challenges to the associate judge's report.

[In re G.S.G., 145 S.W.3d 351 \(Tex. App. 2004\)](#)

Texas Court of Appeals

Extract

The Family Code authorizes a trial court judge to refer certain family law matters to either associate judges or to child support masters. See generally TEX. FAM. CODE ANN. §§ 201.001-208 (Vernon 2002 & Supp.2004-05). The trial court judge can appoint an associate judge to hear any matter over which the trial court has jurisdiction under Title I or IV. TEX. FAM.CODE ANN. § 201.005. The trial court can appoint a master to hear only matters relating to child support. TEX. FAM.CODE ANN. § 201.101. The Family Code treats associate judges and child support masters differently. For example, when no notice of appeal is filed, the recommendation of an associate judge does not become the final order of the court unless ratified by the trial judge. TEX. FAM.CODE ANN. § 201.013(b).

Summary

The passage provides insight into the procedural framework of how associate judges operate within the Texas Family Code. It clarifies that associate judges can hear matters under the jurisdiction of the trial court, but their recommendations do not become final without the trial judge's ratification unless an appeal is filed. This suggests that the trial court retains ultimate jurisdiction over the matters heard by associate judges.

[In re Nash, 13 S.W.3d 894 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

A district or statutory county court judge may hear and determine a matter pending in any district or statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter.

Summary

A district or statutory county court judge in Texas has the authority to hear and determine matters pending in any district or statutory county court within the same county. This includes preliminary or final matters and is valid regardless of whether the case is transferred. This suggests that the judge has the jurisdiction to hear an emergency motion to vacate, even if there was an objection to an associate judge, as long as it is within the same county.

[In re N.M.](#)

Texas Court of Appeals

Extract

The Texas Family Code provides for the appointment of associate judges to assist with completing Title IV-D child support cases referred to an associate judge by an appropriate court. Tex. Fam. Code § 201.101. An associate judge may hold a trial on the merits and recommend an order to the referring district court. Id. § 201.104(c). After the associate judge holds a trial and provides the substance of his rulings, a party may request that the referring district court hold a de novo hearing on specified issues. See id. §§ 201.015, .1042. An associate judge's proposed order generally is in full force and effect and enforceable as an order or judgment of the referring court pending a de novo hearing before the referring court. Id. § 201.1041(c).

Summary

The passage provides information about the role of associate judges in Texas, specifically their ability to hold trials and recommend orders to the referring district court. It also explains the process for requesting a de novo hearing on specified issues after an associate judge's trial. This is relevant to understanding the jurisdictional authority of judges in cases involving associate judges.

[Gerke v. Kantara, 492 S.W.3d 791 \(Tex. App. 2016\)](#)

Texas Court of Appeals

Extract

The powers of an associate judge are enumerated in the Family Code and they include the power to "recommend an order to be rendered in a case." Tex. Fam. Code Ann. § 201.007(a)(10) (emphasis added). Thus, an associate judge has the authority to "recommend" to the referring court that an order executed by the associate judge be "rendered" by the referring court and become a pronouncement, or final order, of that court. The associate judge's proposed order may be adopted, modified, or rejected or sent back to the associate judge by the referring court. Id. § 201.014(a). Such a proposed order becomes final and appealable from the date it is signed by the judge of the referring court, and not before. See id. § 201.016(b).

Summary

The passage explains that an associate judge in Texas has the authority to recommend an order, but it only becomes final and appealable once signed by the referring court. This indicates that the associate judge does not have the power to render a final judgment independently, except in limited circumstances. Therefore, if a party objects to an associate judge's report, the referring court must take action for the order to become final. This suggests that the associate judge would not have subject matter jurisdiction to hear an emergency motion to vacate unless the referring court has rendered the order final.

[Office of the Attorney Gen. of Tex. v. C.W.H., 531 S.W.3d 178 \(Tex. 2017\)](#)

Texas Supreme Court

Extract

Subsection (d) then limited that authority by providing that [o]nly the referring court may hear and render an order on a motion for postjudgment relief, including a motion for a new trial or to vacate, correct, or reform a judgment.' Id. § 201.104(d).

Summary

The passage from the Texas Supreme Court case clarifies that under Texas Family Code § 201.104(d), only the referring court, not the associate judge, has the authority to hear and render an order on a motion for postjudgment relief, which includes a motion to vacate. This indicates that an associate judge does not have subject matter jurisdiction to hear an emergency motion to vacate, as such motions fall under postjudgment relief.

[Tex. Gov't. Code § 54B.014 Tex. Gov't. Code § 54B.014 Judicial Action On Associate Judge's Report](#)

Extract

After the associate judge's report is filed, and unless the parties have filed a written notice of appeal to the referring court, the referring court may: adopt, approve, or reject the associate judge's report; hear further evidence; or recommit the matter for further proceedings as the referring court considers proper and necessary in the particular circumstances of the case.

Summary

The referring court has the authority to take specific actions regarding an associate judge's report, including adopting, approving, or rejecting the report, hearing further evidence, or recommitting the matter for further proceedings. This suggests that the referring court retains jurisdiction to address issues related to the associate judge's report, including potentially hearing an emergency motion to vacate, provided no written notice of appeal has been filed.

[Tex. Fam. Code § 201.104 Tex. Fam. Code § 201.104 Powers of Associate Judge](#)

Extract

Only the referring court may hear and render an order on a motion for postjudgment relief, including a motion for a new trial or to vacate, correct, or reform a judgment.

Summary

The passage clearly states that only the referring court, not the associate judge, has the authority to hear and render an order on a motion for postjudgment relief, which includes a motion to vacate. This indicates that the associate judge does not have subject matter jurisdiction to hear the emergency motion to vacate.

[Tex. Fam. Code § 201.007 Tex. Fam. Code § 201.007 Powers of Associate Judge](#)

Extract

Except as limited by an order of referral, an associate judge may: conduct a hearing; hear evidence; compel production of relevant evidence; rule on the admissibility of evidence; ... without prejudice to the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 and subject to Subsection (c), render and sign: (A) a final order agreed to in writing as to both form and substance by all parties; (B) a final default order; (C) a temporary order; or (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing; ... An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

Summary

Powers of an associate judge, including conducting hearings and making certain orders, but it also notes that an associate judge can refer a case back to the referring court. This suggests that while an associate judge has broad powers, there are circumstances where the case may need to be referred back to the referring court, especially if there is an objection or a need for a de novo hearing.

[Tex. Fam. Code § 201.014 Tex. Fam. Code § 201.014 Judicial Action On Associate Judge's Proposed Order Or Judgment](#)

Extract

Except as otherwise provided in this subchapter, unless a party files a written request for a de novo hearing before the referring court, the referring court may: adopt, modify, or reject the associate judge's proposed order or judgment; hear further evidence; or recommit the matter to the associate judge for further proceedings.

Summary

The referring court has the authority to adopt, modify, or reject an associate judge's proposed order or judgment, hear further evidence, or recommit the matter to the associate judge for further proceedings. This indicates that the referring court retains jurisdiction over the matter unless a party requests a de novo hearing. The passage does not specifically address emergency motions to vacate, but it implies that the referring court has broad authority to address issues related to the associate judge's report.

[Tex. Gov't. Code § 74.094 Tex. Gov't. Code § 74.094 Hearing Cases](#)

Extract

A district or statutory county court judge may hear and determine a matter pending in any district or statutory county court in the county regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. The judge may sign a judgment or order in any of the courts regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter.

Summary

District or statutory county court judges in Texas have the authority to hear and determine matters pending in any district or statutory county court within the county. This includes preliminary or final matters and is not limited by whether there is a judgment in the matter. The passage suggests that a judge has the jurisdiction to hear an emergency motion to vacate, as it is a matter pending in the court.

[Tex. Gov't. Code § 54A.115 Tex. Gov't. Code § 54A.115 De Novo Hearing](#)

Extract

A party may request a de novo hearing before the referring court by filing with the clerk of the referring court a written request not later than the seventh working day after the date the party receives notice of the substance of the associate judge's decision as provided by Section GOVERNMENT CODE 54A.111.

Summary

A party has the right to request a de novo hearing before the referring court if they are dissatisfied with the associate judge's decision. This request must be filed within seven working days after receiving notice of the associate judge's decision. The de novo hearing is limited to the issues specified in the request. This suggests that the referring court retains jurisdiction to hear matters related to the associate judge's decision, including potentially an emergency motion to vacate, provided the procedural requirements are met.

This memo was compiled by Vincent AI based on vLex materials available as of May 09, 2025. [View full answer on vLex](#)