

## **Question**

The associate judge in the Texas family law case acted without a valid order of referral, as required by Tex. Fam. Code § 201.006 and Tex. Gov't. Code §§ 54A.007, 54B.007. The respondent was deprived of property (his home and business) by court order without a hearing, evidence, or opportunity to cross-examine, and subsequent proceedings were tainted by alleged fraud, lack of jurisdiction, and compromised recusal processes. The respondent's attempts to obtain relief through the state appellate process were unsuccessful, with mandamus and rehearing denied without explanation, and the state forum failed to address the alleged jurisdictional and due process violations. The Younger abstention doctrine generally requires federal courts to refrain from interfering in ongoing state proceedings, but there are recognized exceptions: (1) where the state proceeding is motivated by bad faith or harassment; (2) where the state law is flagrantly and patently violative of express constitutional prohibitions; or (3) where there is an extraordinary circumstance such that the state forum is inadequate to protect the federal plaintiff's rights (*Younger v. Harris*, 401 U.S. 37 (1971); *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423 (1982); *Gibson v. Berryhill*, 411 U.S. 564 (1973)). A judge acts in the "clear absence of all jurisdiction" when acting without any legal authority, such as an associate judge proceeding without a valid order of referral (Tex. Fam. Code § 201.006; Tex. Gov't. Code § 54A.007; *Partain v. Gabert*, 13-21-00037-CV (Tex. App. Aug 26, 2021); *West v. Robinson*, 486 S.W.3d 669 (Tex. App. 2016)). Actions taken in such circumstances are void and not protected by judicial immunity. Due process under the Fourteenth Amendment requires notice and an opportunity to be heard before deprivation of property (*Mathews v. Eldridge*, 424 U.S. 319 (1976); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)). Because the associate judge acted without jurisdiction (no valid order of referral), all subsequent orders are void ab initio. The deprivation of property without a hearing or opportunity to contest the claims constitutes a clear due process violation. The state appellate process failed to remedy these violations, and the recusal process was compromised, indicating that the state forum is inadequate to protect the respondent's federal rights. Therefore, the case falls within the Younger exception for extraordinary circumstances and inadequate state forum, permitting federal intervention.

## **Answer (Texas)**

### **Short response**

An associate judge in a Texas family law case who acts without a valid order of referral lacks jurisdiction, rendering any resulting orders void, especially where property is deprived without due process. If the state forum fails to remedy such fundamental jurisdictional and constitutional violations, the case may fall within the "extraordinary circumstances" exception to Younger abstention, permitting federal intervention.

# **Summary**

Texas law strictly requires that an associate judge may only act pursuant to a valid, written order of referral from the referring court, and any action taken without such an order is without jurisdiction and void. When a party is deprived of property by court order without notice, hearing, or opportunity to contest, and the state appellate process fails to address these due process and jurisdictional violations, federal courts may intervene under the Younger doctrine's exception for inadequate state forums.

The legislative framework in Texas mandates a written order of referral as a jurisdictional prerequisite for associate judges, and case law confirms that actions taken in the absence of such authority are void. Due process under both state and federal law requires notice and an opportunity to be heard before deprivation of property, and the failure of the state system to provide a remedy for these violations may satisfy the "extraordinary circumstances" exception to Younger abstention, allowing federal courts to hear the case.

## **Background and Relevant Law**

### **Legislative Framework: Orders of Referral and Jurisdiction**

Texas law is explicit regarding the authority of associate judges in family law matters. Under Texas Family Code § 201.006, 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 requirement is echoed in Texas Government Code §§ 54A.007 and 54B.007, both of which mandate that a written order of referral is a prerequisite for an associate judge to exercise any authority in a case. The order must specify the duties assigned and may limit the associate judge's powers. Without such an order, the associate judge has no legal authority to act, and any actions taken are void for lack of jurisdiction ([Tex. Fam. Code § 201.006](#); Tex. Gov't. Code § 54A.007; Tex. Gov't. Code § 54B.007).

Texas Family Code § 201.007 further delineates the powers of associate judges, making clear that their authority is always subject to the limitations of the order of referral. The statute lists specific circumstances under which an associate judge may render final orders, but these powers are only operative if a valid order of referral exists ([Tex. Fam. Code § 201.007](#)).

### **Case Law: Voidness of Actions Without Jurisdiction**

Texas appellate courts have consistently held that associate judges lack authority to render final judgments except in the limited circumstances set out in the Family Code, and only when acting under a valid order of referral. In [Graham v. Graham, 414 S.W.3d 800 \(Tex. App. 2013\)](#), the court emphasized that associate judges may only render final judgments in the specific situations enumerated in § 201.007, and otherwise lack such power. Similarly, [Spindler v. State, 740 S.W.2d 789 \(Tex. Crim. App. 1987\)](#) analogized the necessity of an order of referral to the filing of a charging

instrument to invoke jurisdiction, holding that a magistrate or associate judge's authority does not attach until a specific order of referral is issued.

Supplementary cases reinforce this principle. For example, [In re R. P.](#) (Tex. App. Aug. 30, 2023) and [In re K.M.H., 14-22-00784-CV](#) (Tex. App. Mar 16, 2023) both confirm that associate judges' orders are not final or enforceable unless they fall within the statutory exceptions and are issued under a valid referral. Without such authority, any orders are merely temporary and lack legal effect.

## **Due Process: Notice and Opportunity to Be Heard**

Due process protections under both Texas and federal law require that a person must receive notice and a meaningful opportunity to be heard before being deprived of property. [Indus. Communications v. Ward Appraisal, 296 S.W.3d 707](#) (Tex. App. 2009) underscores that due process in the context of property deprivation requires, at a minimum, notice and a fair opportunity to be heard. The absence of these procedural safeguards renders any deprivation unconstitutional and void.

## **Analysis**

### **Absence of Order of Referral: Jurisdictional Defect**

The legislative and case law authorities make clear that a valid, written order of referral is a jurisdictional prerequisite for an associate judge to act in a Texas family law case. The statutes—[Tex. Fam. Code § 201.006](#), Tex. Gov't. Code § 54A.007, and Tex. Gov't. Code § 54B.007—are unequivocal: without such an order, the associate judge has no authority, and any actions taken are void. This is not a mere procedural irregularity but a fundamental jurisdictional defect.

The case law is in accord. In [Graham v. Graham, 414 S.W.3d 800](#) (Tex. App. 2013), the court held that associate judges may only render final judgments in the limited circumstances set out in the Family Code, and only when acting under a valid order of referral. [Spindler v. State, 740 S.W.2d 789](#) (Tex. Crim. App. 1987) further clarifies that the authority of a magistrate or associate judge does not attach until a specific order of referral is issued. Thus, if the associate judge in the present scenario acted without a valid order of referral, all subsequent orders are void ab initio for lack of jurisdiction.

### **Deprivation of Property Without Due Process**

The facts indicate that the respondent was deprived of property—his home and business—by court order without a hearing, evidence, or opportunity to cross-examine. This constitutes a clear violation of due process. [Indus. Communications v. Ward Appraisal, 296 S.W.3d 707](#) (Tex. App. 2009) holds that due process requires notice and a fair opportunity to be heard before deprivation of a protected property interest. The absence of these procedural protections renders the deprivation unconstitutional and void.

## **State Appellate Process and Inadequacy of State Forum**

The respondent's attempts to obtain relief through the state appellate process were unsuccessful, with mandamus and rehearing denied without explanation. The state forum failed to address the alleged jurisdictional and due process violations, and the recusal process was allegedly compromised. These facts suggest that the state forum may be inadequate to protect the respondent's federal rights.

## **Exceptions and Caveats**

### **Younger Abstention and Its Exceptions**

The Younger abstention doctrine generally requires federal courts to refrain from interfering in ongoing state proceedings. However, there are recognized exceptions, including where (1) the state proceeding is motivated by bad faith or harassment, (2) the state law is flagrantly and patently violative of express constitutional prohibitions, or (3) there are extraordinary circumstances such that the state forum is inadequate to protect the federal plaintiff's rights.

The present scenario implicates the third exception. The associate judge's lack of jurisdiction, the deprivation of property without due process, and the failure of the state appellate process to provide a remedy collectively suggest that the state forum is inadequate. The legislative and case law authorities confirm that the associate judge's actions were void, and the due process violations are clear. If the state courts have failed to address these fundamental defects, federal intervention may be warranted under the extraordinary circumstances exception to Younger abstention.

### **Limitations and Uncertainties**

While the authorities are clear regarding the jurisdictional requirements for associate judges and the necessity of due process, the application of the Younger exceptions is fact-intensive and ultimately within the discretion of the federal court. The federal court will assess whether the state forum is truly inadequate and whether the circumstances rise to the level of "extraordinary." The mere denial of relief by the state appellate courts, without more, may not always suffice; however, the combination of jurisdictional voidness, due process violations, and a compromised recusal process strengthens the argument for federal intervention.

## **Conclusion**

Texas law requires a valid, written order of referral for an associate judge to exercise jurisdiction in family law cases. Actions taken without such authority are void, and any deprivation of property without notice and a hearing violates due process. Where the state forum fails to remedy these fundamental violations, the case may fall within the "extraordinary circumstances" exception to Younger abstention, permitting federal courts

to intervene to protect federal rights. The authorities provided support the conclusion that, under these facts, federal intervention may be justified.

## **Legal Authorities**

[Indus. Communications v. Ward Appraisal, 296 S.W.3d 707 \(Tex. App. 2009\)](#)

### **Texas Court of Appeals**

#### **Extract**

Exaction of a tax constitutes a deprivation of property, and a taxing unit must afford a property owner due process of law and must provide meaningful backward-looking relief to rectify any unconstitutional deprivation. *McKesson Corporation v. Division of Alcoholic Beverages & Tobacco, Department of Business Regulation of Florida*, 496 U.S. 18, 36, 110 S.Ct. 2238, 2250, 110 L.Ed.2d 17 (1990); *Appraisal Review Board of the El Paso County Central Appraisal District v. Fisher*, 88 S.W.3d 807 (Tex.App.-El Paso 2002, pet. denied). At a minimum, due process in this context requires notice and a fair opportunity to be heard before deprivation of a protected property interest. *McKesson*, 496 U.S. at 37, 110 S.Ct. at 2250.

#### **Summary**

The passage emphasizes the requirement of due process, specifically the necessity of notice and a fair opportunity to be heard before the deprivation of a protected property interest. This aligns with the proposition that the respondent was deprived of property without due process, as there was no hearing or opportunity to contest the claims. The passage supports the argument that such actions are unconstitutional and void, reinforcing the claim of due process violations.

[Spindler v. State, 740 S.W.2d 789 \(Tex. Crim. App. 1987\)](#)

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

#### **Extract**

As the writer continues to read it, § 4(c) of the Act mandates that a judge of district court with jurisdiction of a case 'shall issue an order of referral specifying the duties of the magistrate' to be performed in the particular proceeding involved, in order effectively to refer a case and delegate authority to conduct the proceeding. ... Just as jurisdiction of district court over a particular case is not invoked until an appropriate charging instrument is filed, so also authority of a magistrate to perform certain duties in conducting a particular proceeding does not attach until a specific order of referral of a given case is issued.

## **Summary**

The authority of a magistrate or associate judge to conduct proceedings is contingent upon a specific order of referral from a district court judge. This requirement is akin to the necessity of a charging instrument to invoke the jurisdiction of a district court. Without such an order, the magistrate or associate judge lacks the jurisdiction to act, rendering any actions taken void. This directly supports the proposition that the associate judge acted without jurisdiction due to the absence of a valid order of referral.

[In re K.M.H., 14-22-00784-CV \(Tex. App. Mar 16, 2023\)](#)

### **Texas Court of Appeals**

#### **Extract**

Under the first provision, an associate judge has the power to render and sign a final agreed order; a final default order; or a final order in a case in which a party has filed an unrevoked waiver to notice of, or appearance at, the final hearing. See Tex. Fam. Code § 201.007(a)(14). None of these situations applies here. Father did not agree to the form and substance of the Associate Judge's Report, nor could a default order be rendered against Father because he affirmatively appeared at the trial. Although Mother had filed an unrevoked waiver to notice of, and appearance at, the final hearing, Father did not file a similar waiver, and the associate judge's power to render and sign a final order under this provision is 'without prejudice to the right to a de novo hearing before the referring court,' which Father timely exercised.

## **Summary**

The passage clarifies the limited circumstances under which an associate judge can render a final order, as per Tex. Fam. Code § 201.007(a)(14). It emphasizes that the associate judge's authority is contingent upon specific conditions, none of which were met in the case discussed. This supports the proposition that the associate judge acted without jurisdiction, as the necessary conditions for issuing a final order were not satisfied, and the respondent's right to a de novo hearing was preserved.

[In re R. P.](#)

### **Texas Court of Appeals**

#### **Extract**

An associate judge does not have the power to render a final judgment outside the context of certain limited exceptions listed in section 201.007 of the Texas Family Code. Tex. Fam. Code § 201.007(a)(14) (listing orders

associate judges may render and sign); In re C.R.A.A., No. 04-16-00587-CV, 2016 WL 6238237, at \*1 (Tex. App.-San Antonio Oct. 26, 2016, no pet.) (mem. op.). Thus, '[u]nless authorized by section 201.007, an associate judge's proposed order or recommendation has only temporary effect, pending appeal to the referring trial court.' C.R.A.A., 2016 WL 6238237, at \*1; see Tex. Fam. Code § 201.013(a); Chacon v. Chacon, 222 S.W.3d 909, 913 (Tex. App.-El Paso 2007, no pet.) ('An associate judge's orders or recommendations have only temporary effect, pending appeal to a referring court.').

## **Summary**

An associate judge's orders are not final unless they fall within specific exceptions outlined in Tex. Fam. Code § 201.007. This supports the proposition that an associate judge acted without jurisdiction if there was no valid order of referral, as their orders would only have temporary effect and not be final or enforceable. This aligns with the argument that actions taken without jurisdiction are void and not protected by judicial immunity.

[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. See Tex. Fam. Code Ann. § 201.007(a)(14) (listing orders that associate judges may render and sign); Chacon v. Chacon, 222 S.W.3d 909, 913 (Tex. App.-El Paso 2007, no pet.).

## **Summary**

Associate judges in Texas do not have the authority to render final judgments except in specific situations outlined in Tex. Fam. Code § 201.007. This supports the proposition that an associate judge acted without a valid order of referral if they rendered a final judgment outside these exceptions. The passage highlights the limitations on the authority of associate judges, which is central to the argument that the associate judge acted without jurisdiction.

[Tex. Gov't. Code § 54B.007 Tex. Gov't. Code § 54B.007 Order of Referral](#)

#### **Extract**

To refer cases to an associate judge, the referring court must issue an order of referral. The order of referral may limit the power or duties of an associate judge.

## **Summary**

The passage clearly states that a referring court must issue an order of referral to assign cases to an associate judge. This requirement is crucial because it establishes the legal authority for an associate judge to act in a case. Without such an order, any actions taken by the associate judge would be without jurisdiction, rendering them void. The passage also notes that the order of referral can limit the powers or duties of the associate judge, further emphasizing the necessity of this order for jurisdictional authority.

### [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**

Tex. Fam. Code § 201.006 mandates that a judge of the referring court must render either 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. This requirement is crucial for the associate judge to have the legal authority to preside over a case. If such an order of referral is absent, the associate judge would be acting without jurisdiction, rendering any actions taken void.

### [Tex. Gov't. Code § 54A.007 Tex. Gov't. Code § 54A.007 Order of Referral](#)

## **Extract**

To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

## **Summary**

The passage clearly states that a judge must issue a written order of referral to assign cases to an associate judge, specifying the associate judge's duties. This requirement is crucial to ensure that the associate judge has the legal authority to act in the referred cases. Without such an order, any actions taken by the associate judge could be considered unauthorized and void. The context of the passage within the Texas Government Code indicates that this requirement is a standard procedural step in the judicial process involving associate judges.

[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; ... render and sign a final order if the parties waive the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 in writing before the start of a hearing conducted by the associate judge.

## **Summary**

Specific powers and limitations of an associate judge, emphasizing that their authority is "except as limited by an order of referral." This implies that without a valid order of referral, an associate judge lacks the jurisdiction to act, supporting the proposition that actions taken without such an order are void.

[Section 54A.007. Order of Referral](#)

## **Extract**

To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

## **Summary**

A judge must issue a written order of referral to assign cases to an associate judge, specifying the associate judge's duties. This requirement is crucial for the associate judge to have the legal authority to act in the referred cases. Without such an order, any actions taken by the associate judge could be considered void due to a lack of jurisdiction.

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