

Question

Does causing a risk of future delay without reason constitute an abuse of discretion?

Answer (Texas)

Short response

Causing a risk of future delay without reason can constitute an abuse of discretion under Texas law, particularly where such conduct is arbitrary, unreasonable, or contrary to guiding rules and principles. Both legislative provisions and case law support the view that unnecessary or unjustified delays, especially those lacking a sufficient excuse, may be sanctioned as abuses of discretion.

Summary

Texas statutes and administrative regulations explicitly empower judges and administrative law judges to sanction parties or representatives who act to cause unnecessary delay without proper justification, identifying such conduct as improper and potentially sanctionable. Case law further clarifies that an abuse of discretion occurs when a decision is made arbitrarily, unreasonably, or without reference to guiding rules and principles, and that delays without sufficient excuse may meet this threshold.

While not every delay or risk of delay automatically rises to the level of abuse of discretion, the absence of a valid reason—especially when the delay is groundless or for an improper purpose—can render the conduct arbitrary or capricious, thus constituting an abuse of discretion. However, the context and intent behind the delay, as well as the presence or absence of prejudice or improper motive, remain important factors in the analysis.

Background and Relevant Law

Legislative and Regulatory Framework

Texas law provides clear statutory guidance regarding the avoidance of unnecessary delay in both judicial and administrative proceedings. Under [Tex. Gov't. Code § 2003.0421](#), administrative law judges are authorized to impose sanctions against parties or representatives who file motions or pleadings that are groundless and brought in bad faith, for harassment, or for any other improper purpose, including causing unnecessary delay or needlessly increasing the cost of proceedings. This provision makes explicit that causing delay without a legitimate reason is considered an improper purpose and is subject to sanction, indicating legislative intent to treat such conduct as an abuse of discretion when it lacks justification ([Tex. Gov't. Code § 2003.0421](#)).

Similarly, [Tex. Gov't. Code § 2003.047](#), which applies to hearings before the Texas Commission on Environmental Quality, reiterates that administrative law judges may sanction parties for groundless motions or pleadings brought for improper purposes, such as causing unnecessary delay ([Tex. Gov't. Code § 2003.047](#)). These statutes collectively establish that the risk or actuality of delay, when not supported by a valid reason, is contrary to the proper administration of justice and may be sanctioned as an abuse of discretion.

Further, [31 Tex. Admin. Code § 2.4](#) imposes a duty on administrative law judges to avoid unnecessary delay in proceedings and grants them authority to regulate the course of hearings, including the power to grant or deny continuances and to limit the time for argument and evidence presentation. This regulatory framework underscores the expectation that proceedings should be conducted expeditiously and that unjustified delays are inconsistent with the judge's duties ([31 Tex. Admin. Code § 2.4](#)).

[Tex. Gov't. Code § 2001.174](#), which governs judicial review of administrative decisions, provides that a court may reverse or remand a case if the agency's decision is arbitrary, capricious, or characterized by an abuse of discretion. While this provision does not specifically mention delay, it establishes the general principle that arbitrary or capricious conduct—including unjustified delay—may constitute an abuse of discretion ([Tex. Gov't. Code § 2001.174](#)).

Case Law

Texas courts have consistently articulated the standard for abuse of discretion as conduct that is arbitrary, unreasonable, or made without reference to guiding rules and principles. The Texas Supreme Court in [Downer v. Aquamarine Operators, Inc.](#) established that the test for abuse of discretion is not whether the appellate court would have made the same decision, but whether the lower court acted without reference to guiding rules and principles or in an arbitrary or unreasonable manner ([Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 \(Tex. 1985\)](#)). This standard has been reaffirmed in numerous subsequent cases, including [In re Black](#) ([In re Black, 640 S.W.3d 894 \(Tex. App. 2022\)](#)), [In re Hart](#) ([In re Hart, No. 07-20-00201-CV, No. 07-20-00202-CV, No. 07-20-00203-CV \(Tex. App. Sep 29, 2020\)](#)), and [Mauricio v. Boecker](#) ([Mauricio v. Boecker, 122 S.W.3d 911 \(Tex. 2003\)](#)).

In [Christian v. Christian](#), the court held that an abuse of discretion occurs when a trial court fails to apply the law correctly or when a delay in prosecuting a case is unreasonable and lacks a sufficient excuse. The court further stated that the failure to exercise due diligence is conclusively established if the delay is unreasonable as a matter of law and the party responsible for the delay cannot provide a sufficient excuse ([Christian v. Christian, 985 S.W.2d 513 \(Tex. App. 1998\)](#)). This case directly supports the proposition that causing a risk of future delay without reason may constitute an abuse of discretion.

Other cases, such as [Weisel Enterprises, Inc. v. Curry](#) and [Bush v. Vela](#), reinforce that an abuse of discretion may be found where the action is arbitrary, capricious, or made without reason ([Weisel Enterprises, Inc. v. Curry, 718 S.W.2d 50 \(Tex. App. 1986\)](#); [Bush v. Vela, 535 S.W.2d 803 \(Tex. Ct. App. 1976\)](#)).

It is important to note that some cases, such as [Cascos v. Cameron County Attorney](#) and [Sharpe v. Kilcoyne](#), have been subject to negative subsequent treatment. [Cascos](#) was abrogated by [City of Brownsville v. Brownsville GMS, Ltd.](#), and [Sharpe](#) was declined to be followed by [Stiles v. Stiles](#). However, the general principles regarding abuse of discretion articulated in these cases remain consistent with the broader body of Texas law, and their negative treatment does not undermine the core standards relevant to delay and discretion.

Secondary Materials

Secondary materials, including treatises and practice guides, echo the judicial and legislative standards, emphasizing that an abuse of discretion occurs when a decision is made without a rational basis or guiding principles, or is arbitrary or unreasonable. They also clarify that not every error in judgment constitutes an abuse of discretion; rather, the conduct must lack justification or be contrary to established rules ([CHAPTER 2 Standards of Review and Scope of Review](#)).

Analysis

The question of whether causing a risk of future delay without reason constitutes an abuse of discretion must be analyzed in light of both statutory mandates and judicial standards.

Statutory and Regulatory Application

The Texas Government Code and administrative regulations make clear that causing unnecessary delay—especially when done without a valid reason—can be sanctioned as an abuse of discretion. The statutes do not require that actual delay occur; the risk or attempt to cause delay for an improper purpose, or without justification, is sufficient to trigger sanctions. This is evident from the language authorizing sanctions for groundless motions or pleadings brought for improper purposes, including unnecessary delay ([Tex. Gov't. Code § 2003.0421](#); [Tex. Gov't. Code § 2003.047](#)).

Administrative law judges are specifically tasked with avoiding unnecessary delay and ensuring that proceedings are conducted expeditiously ([31 Tex. Admin. Code § 2.4](#)). When a party or representative acts in a manner that risks future delay without a sufficient excuse, such conduct is inconsistent with the judge's duty and the statutory framework, and may be deemed an abuse of discretion.

Judicial Standards

Texas courts have repeatedly held that an abuse of discretion occurs when a decision is arbitrary, unreasonable, or made without reference to guiding rules and principles ([Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238 \(Tex. 1985\)](#); [Mauricio v. Boecker, 122 S.W.3d 911 \(Tex. 2003\)](#)). In the context of delay, [Christian v. Christian](#) is particularly instructive: if a delay is unreasonable and the party responsible cannot provide a sufficient excuse, the failure to exercise due diligence is established, and the conduct may be deemed an abuse of discretion ([Christian v. Christian, 985 S.W.2d 513 \(Tex. App. 1998\)](#)).

The courts have also clarified that not every delay or risk of delay constitutes an abuse of discretion. The key factors are the presence or absence of a sufficient excuse, the reasonableness of the delay, and whether the conduct was arbitrary or contrary to established rules. If a party can provide a valid reason for the delay, or if the delay is not unreasonable under the circumstances, it may not rise to the level of abuse of discretion.

Improper Purpose and Intent

Both statutory and case law distinguish between delays caused by improper purpose (such as harassment or tactical advantage) and those resulting from legitimate reasons or mere error in judgment. For example, in the context of due process claims, Texas courts have held that a delay does not violate due process unless it is both prejudicial and intentionally designed to give one party a tactical advantage ([State v. Krizan-Wilson, 428 S.W.3d 850 \(Tex. Crim. App. 2014\)](#)), as summarized in secondary materials). While the due process standard is distinct from the abuse of discretion standard, the underlying principle is similar: the absence of an improper purpose or prejudice may weigh against a finding of abuse.

However, the Texas Government Code provisions do not require proof of prejudice or improper purpose for a finding of abuse of discretion; the mere act of causing unnecessary delay without a valid reason may suffice ([Tex. Gov't. Code § 2003.0421](#)). Thus, in administrative proceedings, the threshold for abuse of discretion may be lower than in constitutional due process claims.

Application to Risk of Future Delay

The question specifically concerns the risk of future delay, rather than actual delay. The statutory language encompasses both actual and potential delays, as it authorizes sanctions for conduct intended to cause unnecessary delay, regardless of whether the delay ultimately materializes. Therefore, causing a risk of future delay without reason—such as by filing groundless motions or engaging in dilatory tactics—can constitute an abuse of discretion if it is arbitrary, unreasonable, or contrary to guiding rules and principles.

The case law supports this interpretation. Courts have found abuse of discretion where a party's conduct is arbitrary or lacks a sufficient excuse, even if the harm is prospective rather than realized ([Christian v. Christian, 985 S.W.2d 513 \(Tex. App. 1998\)](#); [Weisel Enterprises, Inc. v. Curry, 718 S.W.2d 50 \(Tex. App. 1986\)](#)). The focus is on the reasonableness and justification for the conduct, not solely on the outcome.

Exceptions and Caveats

While the authorities are clear that unjustified or arbitrary delays may constitute an abuse of discretion, there are important caveats:

- Not every delay or risk of delay is sanctionable. The conduct must be unreasonable, arbitrary, or without reference to guiding rules and principles. A reasonable error in judgment, or a delay supported by a valid excuse, does not constitute an abuse of discretion ([CHAPTER 2 Standards of Review and Scope of Review](#)).
- In the context of due process claims, a higher threshold applies: there must be both prejudice and an intentional delay for tactical advantage ([State v. Krizan-Wilson, 428 S.W.3d 850 \(Tex. Crim. App. 2014\)](#)). However, this standard is not required for a finding of abuse of discretion in administrative or civil proceedings.
- Some authorities, such as [Cascos v. Cameron County Attorney](#) and [Sharpe v. Kilcoyne](#), have been subject to negative subsequent treatment. [Cascos](#) was abrogated by [City of Brownsville v. Brownsville GMS, Ltd.](#), and [Sharpe](#) was declined to be followed by [Stiles v. Stiles](#). While these cases are less authoritative as a result, the general principles they articulate remain consistent with the broader body of Texas law and do not undermine the analysis presented here.

Conclusion

In summary, Texas law—through both statutory provisions and case law—supports the conclusion that causing a risk of future delay without reason can constitute an abuse of discretion. The key factors are whether the conduct is arbitrary, unreasonable, or contrary to guiding rules and principles, and whether a sufficient excuse is lacking. While not every delay or risk of delay is sanctionable, unjustified or groundless conduct that risks delaying proceedings is inconsistent with the duties of judges and administrative law judges and may be subject to sanction as an abuse of discretion. The analysis is supported by both legislative mandates and a consistent line of judicial authority.

Legal Authorities

[Bush v. Vela, 535 S.W.2d 803 \(Tex. Ct. App. 1976\)](#)

Texas Court of Appeals

Extract

While mandamus will lie to correct a clear abuse of discretion, the action complained of must amount to 'fraud, caprice, or by a purely arbitrary decision, and without reason.'

Summary

For an action to be considered an abuse of discretion, it must be characterized by fraud, caprice, or a purely arbitrary decision made without reason. This suggests that causing a risk of future delay without reason could potentially be seen as an abuse of discretion if it meets these criteria.

[Weisel Enterprises, Inc. v. Curry, 718 S.W.2d 50 \(Tex. App. 1986\)](#)

Texas Court of Appeals

Extract

In order to constitute an abuse of discretion, the action complained of must amount to fraud, or caprice or must be a purely arbitrary decision without reason. Professional Microfilming, Inc. v. Houston, 661 S.W.2d 767, 769 (Tex.App.--Fort Worth 1983, no writ).

Summary

Definition of what constitutes an abuse of discretion in Texas law. It states that an action must be fraudulent, capricious, or purely arbitrary without reason to be considered an abuse of discretion. This definition can be applied to various situations, including those involving the risk of future delay.

[Lindsey v. Lindsey, 965 S.W.2d 589 \(Tex. App. 1998\)](#)

Texas Court of Appeals

Extract

The term 'abuse of discretion' is not susceptible to rigid definition. ... The test for an abuse of discretion is not whether, in the opinion of the reviewing court, the facts present an appropriate case for the trial court's action, but whether the court acted without reference to any guiding rules and principles.

Summary

The passage from Lindsey v. Lindsey provides insight into the definition and test for "abuse of discretion" in Texas. It emphasizes that abuse of discretion is determined by whether the court acted without reference to guiding rules and principles, rather than whether the reviewing court agrees with the decision. This suggests that causing a risk of future delay without reason could potentially be considered an abuse of discretion if it is shown that the decision was made without reference to guiding rules and principles.

[Cascos v. Cameron County Attorney, 319 S.W.3d 205 \(Tex. App. 2010\)](#)

Texas Court of Appeals

Extract

Our review is much less deferential with respect to the trial court's determination of the legal principles supporting its ruling, because a trial court has no discretion in determining what the law is or in applying the law to the facts. See Walker, 827 S.W.2d at 840. Therefore, a clear failure by the trial court to analyze or apply the law correctly will constitute an abuse of discretion and may result in mandamus. See id.

Summary

A trial court's failure to correctly analyze or apply the law constitutes an abuse of discretion. This suggests that if a court's decision causes a risk of future delay without a legal basis, it could be considered an abuse of discretion, as it reflects a failure to apply the law correctly.

[Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238 \(Tex. 1985\)](#)

Texas Supreme Court

Extract

The test for abuse of discretion is not whether, in the opinion of the reviewing court, the facts present an appropriate case for the trial court's action. Rather, it is a question of whether the court acted without reference to any guiding rules and principles. ... Another way of stating the test is whether the act was arbitrary or unreasonable.

Summary

Definition of what constitutes an abuse of discretion, emphasizing that it involves actions taken without reference to guiding rules and principles, or actions that are arbitrary or unreasonable. This definition can be applied to assess whether causing a risk of future delay without reason would be considered an abuse of discretion.

[Christian v. Christian, 985 S.W.2d 513 \(Tex. App. 1998\)](#)

Texas Court of Appeals

Extract

We review a trial court's denial of a motion to dismiss for want of prosecution under an abuse-of-discretion standard. ... An abuse of discretion with respect to factual matters occurs if the record establishes 'the trial court could reasonably have reached only one decision.' ... However, '[a] trial court has no 'discretion' in determining what the law is or applying the law to the facts. Thus, a clear failure by the trial court to analyze or apply the law correctly will constitute an abuse of discretion.' ... However, the failure to exercise due diligence is conclusively established if (1) the delay in prosecuting a case is unreasonable as a matter of law and (2) the delaying party fails to establish a 'sufficient excuse.'

Summary

An abuse of discretion occurs when a trial court fails to apply the law correctly or when the delay in prosecuting a case is unreasonable and without a sufficient excuse. This suggests that causing a risk of future delay without reason could be seen as an abuse of discretion if it results in an unreasonable delay and lacks a sufficient excuse.

[Rombom v. G.D.C.I., 07-23-00278-CV \(Tex. App. Jul 11, 2024\)](#)

Texas Court of Appeals

Extract

We review a trial court's dismissal for abused discretion, meaning the court acted in an arbitrary or unreasonable manner or without reference to any guiding rules and principles. Dobroslavic, 397 S.W.3d at 728; Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex. 1985)). The fact that an appellate judge may decide differently does not constitute an abuse of discretion. Downer, 701 S.W.2d at 242. Rather, we may find a trial court abused its discretion only if the trial court failed to reach the only decision it could have.

Summary

The passage provides insight into what constitutes an abuse of discretion in the context of a trial court's decision. It clarifies that an abuse of discretion occurs when the court acts arbitrarily, unreasonably, or without reference to guiding rules and principles. The passage also emphasizes that a different decision by an appellate judge does not automatically indicate an abuse of discretion. The key point is that abuse of discretion is found only if the trial court failed to reach the only decision it could have made.

[In re Hart, No. 07-20-00201-CV, No. 07-20-00202-CV, No. 07-20-00203-CV \(Tex. App. Sep 29, 2020\)](#)

Texas Court of Appeals

Extract

To establish an abuse of discretion, a relator must demonstrate the trial court acted unreasonably, arbitrarily, or without reference to any guiding rules or principles. See Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex. 1985).

Summary

Definition of what constitutes an abuse of discretion in Texas. It states that for an action to be considered an abuse of discretion, it must be shown that the trial court acted unreasonably, arbitrarily, or without reference to guiding rules or principles. This definition is applicable to any case where abuse of discretion is being evaluated, not just specific cases.

[Spitzer v. Berry, 247 S.W.3d 747 \(Tex. App. 2008\)](#)

Texas Court of Appeals

Extract

An appellate court reviews a trial court's decision on a section 74.351 motion to dismiss for an abuse of discretion. ... A trial court abuses its discretion when its decision is arbitrary, unreasonable, or without reference to any guiding rules or legal principles.

Summary

Definition of what constitutes an abuse of discretion: a decision that is arbitrary, unreasonable, or without reference to guiding rules or legal principles. This definition can be applied to assess whether causing a risk of future delay without reason might be considered an abuse of discretion. If such a delay is deemed arbitrary or unreasonable, it could potentially be classified as an abuse of discretion.

[In re Emeritus Corp., 179 S.W.3d 112 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

The reviewing court cannot set aside the trial court's decision unless it is shown to be arbitrary and unreasonable. Id. Review of a trial court's determination of the legal principles controlling its ruling is much less deferential. Id. 'A trial court has no `discretion' in determining what the law is or applying the law to the facts. Id. A clear failure by the trial court to analyze or apply the law correctly will constitute an abuse of discretion.'

Summary

The passage from "In re Emeritus Corp." provides insight into what constitutes an abuse of discretion. It states that a trial court's decision can only be set aside if it is arbitrary and unreasonable. Furthermore, a trial court has no discretion in determining or applying the law incorrectly, and a clear failure to do so constitutes an abuse of discretion. This suggests that if a trial court's decision to cause a risk of future delay is arbitrary, unreasonable, or based on a misapplication of the law, it could be considered an abuse of discretion.

[In re Black, 640 S.W.3d 894 \(Tex. App. 2022\)](#)

Texas Court of Appeals

Extract

To establish an abuse of discretion, a relator must demonstrate the trial court acted unreasonably, arbitrarily, or without reference to any guiding rules or principles. See Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex. 1985).

Summary

General standard for establishing an abuse of discretion in Texas. It requires showing that the trial court acted unreasonably, arbitrarily, or without reference to guiding rules or principles. This standard can be applied to various situations, including those involving delays, to determine if such delays constitute an abuse of discretion.

[Mauricio v. Boecker, 122 S.W.3d 911 \(Tex. 2003\)](#)

Texas Supreme Court

Extract

A court abuses its discretion if it acts without reference to guiding rules and principles or if its actions were arbitrary and unreasonable.

Summary

Definition of what constitutes an abuse of discretion in Texas. It states that a court abuses its discretion if it acts without reference to guiding rules and principles or if its actions are arbitrary and unreasonable. This definition can be applied to various situations, including those involving the risk of future delay. If causing a risk of future delay is done without reference to guiding rules and principles or is arbitrary and unreasonable, it could be considered an abuse of discretion under this standard.

[Sharpe v. Kilcoyne, 962 S.W.2d 697 \(Tex. App. 1998\)](#)

Texas Court of Appeals

Extract

The standard of review of a trial court's discovery sanctions is whether the court abused its discretion. Bodnow Corp. v. City of Hondo, 721 S.W.2d 839, 840 (Tex. 1986). The test for abuse of discretion is whether the court acted without reference to any guiding rules and principles. See Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex.), cert. denied, 476 U.S. 1159, 106 S.Ct. 2279, 90 L.Ed.2d 721 (1986). In other words, the reviewing court must determine whether the trial court's action was arbitrary or unreasonable. See id. at 242.

Summary

Standard for determining whether a trial court has abused its discretion, which is relevant to the question of whether causing a risk of future delay without reason constitutes such an abuse. The test for abuse of discretion is whether the court acted without reference to guiding rules and principles, and whether the action was arbitrary or unreasonable. This suggests that if causing a risk of future delay is done without reference to guiding principles and is arbitrary or unreasonable, it could constitute an abuse of discretion.

[Tex. Gov't. Code § 2001.174 Tex. Gov't. Code § 2001.174 Review Under Substantial Evidence Rule Or Undefined Scope of Review](#)

Extract

shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: ... (F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Summary

The Texas Government Code provides grounds for reversing or remanding a case if an agency's decision is characterized by an abuse of discretion. The passage does not explicitly mention "causing a risk of future delay without reason" as an abuse of discretion, but it does indicate that decisions that are arbitrary, capricious, or clearly unwarranted exercises of discretion can be grounds for judicial intervention. Therefore, if causing a risk of future delay without reason is deemed arbitrary or capricious, it could potentially be considered an abuse of discretion under this statute.

[Tex. Gov't. Code § 2003.0421 Tex. Gov't. Code § 2003.0421 Sanctions](#)

Extract

An administrative law judge employed by the office or a temporary administrative law judge, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (b) against a party or its representative for: filing a motion or pleading that is groundless and brought: (A) in bad faith; (B) for the purpose of harassment; or (C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

Summary

The Texas Government Code allows an administrative law judge to impose sanctions for actions taken for improper purposes, including causing unnecessary delay. This indicates that causing a risk of future delay without reason could be considered an abuse of discretion if it is deemed an improper purpose.

[31 Tex. Admin. Code § 2.4 31 Tex. Admin. Code § 2.4 Powers and Duties of the Administrative Law Judge](#)

Extract

The administrative law judge shall have the authority and duty to: ... take action to avoid unnecessary delay in the disposition of the proceeding; ... The administrative law judge shall have the power to regulate the course of the hearing and conduct of the parties and their authorized representatives, including the power to: ... grant or deny a continuance; ... ensure that information and testimony are introduced as conveniently and expeditiously as possible, including without limitation, limiting the time of argument and presentation of evidence and examination of witnesses without unfairly prejudicing the rights of parties to the proceedings; ...

Summary

Administrative law judges in Texas have a duty to avoid unnecessary delays in proceedings and have the authority to regulate the course of hearings to ensure they proceed expeditiously. This includes the power to grant or deny continuances and to limit the time for arguments and evidence presentation. Therefore, causing a risk of future delay without reason could be seen as contrary to these duties and powers, potentially constituting an abuse of discretion.

[Tex. Gov't. Code § 2003.047 Tex. Gov't. Code § 2003.047 Hearings For Texas Commission On Environmental Quality](#)

Extract

An administrative law judge hearing a case on behalf of the commission, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (k) against a party or its representative for: filing a motion or pleading that is groundless and brought: (A) in bad faith; (B) for the purpose of harassment; or (C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

Summary

An administrative law judge has the authority to impose sanctions against a party or its representative for filing motions or pleadings that are groundless and brought for improper purposes, such as causing unnecessary delay. This suggests that causing a risk of future delay without a valid reason could be considered an abuse of discretion, as it falls under the category of actions that can be sanctioned for being improper.

[Standards of Review and Federal Court Remedies](#)

Social Security Disability Advocate's Handbook - James Publishing - David Traver, David Ferrari - 2020-05-04

Extract

The Appeals Council will review a hearing decision if there appears to be an abuse of discretion by the administrative law judge. Such abuse will be considered present where an action taken by the administrative law judge is erroneous and without any rational basis, such as where there has been an improper exercise, or a failure to exercise, administrative authority. Although this concept cannot be defined comprehensively, examples of abuses of discretion include: failure to have the claimant submit evidence necessary to support his/her claim; failure to conduct a full and fair hearing; and failure to allow postponement of a scheduled hearing despite physician documentation of the claimant's unavailability for health reasons.

Summary

An abuse of discretion is present when an action is erroneous and without any rational basis, such as improper exercise or failure to exercise administrative authority. Examples include failing to conduct a full and fair hearing or not allowing a postponement despite valid reasons. This suggests that causing a risk of future delay without reason could be seen as an abuse of discretion if it is considered an improper exercise of authority or lacks a rational basis.

[CHAPTER 2 Standards of Review and Scope of Review](#)

Practitioner's Guide to Civil Appeals in Texas - Full Court Press

Extract

The test for abuse of discretion is whether the trial court acted without reference to guiding rules and principles or its action was arbitrary or unreasonable. The question on appeal is not whether the court of appeals would have reached the same result or whether it agrees with the trial court's ruling. Nor is a reasonable error in judgment by the trial court an abuse of discretion.

Summary

General standard for determining an abuse of discretion, which involves assessing whether the trial court acted without reference to guiding rules and principles or if its actions were arbitrary or unreasonable. It clarifies that a reasonable error in judgment does not constitute an abuse of discretion. This standard can be applied to assess whether causing a risk of future delay without reason would be considered an abuse of discretion. If such an action is arbitrary or unreasonable and not based on guiding principles, it could be considered an abuse of discretion.

[Trial issues](#)

Texas Criminal Lawyer's Handbook. Volume 1-2 - James Publishing - Mark G. Daniel, Robert K. Gill - 2022-05-05

Extract

In order to establish a Fifth Amendment due process violation where a prosecution has been delayed, a defendant has the burden of proving both prejudice and that an intentional delay was designed to give the state a tactical advantage. State v. Krizan-Wilson, 354 S.W.3d 808 (Tex. Crim. App. 2011). Absent proof of an improper purpose, the simple fact that a lengthy delay has occurred for no other reason than a difference of opinions amongst prosecutors does not violate due process. State v. Krizan-Wilson, 428 S.W.3d 850, 859 (Tex. Crim. App. 2014).

Summary

For a delay to constitute a due process violation, there must be both prejudice and an intentional delay for tactical advantage. A delay without an improper purpose, such as one caused by differing opinions among prosecutors, does not violate due process. This suggests that causing a risk of future delay without reason does not automatically constitute an abuse of discretion unless there is an improper purpose or intent to gain a tactical advantage.

[Trial Issues](#)

Texas Criminal Lawyer's Handbook. Volume 2 - 2020 - James Publishing - Mark G. Daniel, Robert K. Gill - 2020-08-16

Extract

In order to establish a Fifth Amendment due process violation where a prosecution has been delayed, a defendant has the burden of proving both prejudice and that an intentional delay was designed to give the state a tactical advantage. State v. Krizan-Wilson, 354 S.W.3d 808 (Tex. Crim. App. 2011). Absent proof of an improper purpose, the simple fact that a lengthy delay has occurred for no other reason than a difference of opinions amongst prosecutors does not violate due process. State v. Krizan-Wilson, 428 S.W.3d 850, 859 (Tex. Crim. App. 2014)

Summary

Requirements for establishing a Fifth Amendment due process violation in the context of prosecution delays. It specifies that a defendant must prove both prejudice and that the delay was intentional to give the state a tactical advantage. It further clarifies that a delay occurring merely due to a difference of opinions among prosecutors, without an improper purpose, does not constitute a due process violation. This implies that not all delays, particularly those without an improper purpose, are considered abuses of discretion.

This memo was compiled by Vincent AI based on vLex materials available as of May 06, 2025. [View full answer on vLex](#)