

Question

The Respondent's mandamus petition was denied without explanation, and the Texas Supreme Court denied rehearing. The opposing party did not participate, and the OAG could not enforce the orders. Motions to recuse were filed in response to ongoing issues. Federal courts generally require exhaustion of state remedies before granting relief under § 1983, but exhaustion is not required where state remedies are unavailable or inadequate (*Patsy v. Board of Regents*, 457 U.S. 496 (1982)). The denial of meaningful appellate review and the inability to obtain relief through state processes may support federal intervention under § 1983, especially where due process violations are ongoing and state remedies are ineffective. # ISSUE #1 - DEPRIVATION OF PROPERTY WITHOUT DUE PROCESS OF LAW Amendment XIV Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. VIOLATION: On January 16, 2024, James Munford ordered the Respondent to vacate his home, which also served as his place of business, based on intentionally fabricated claims raised by the Petitioner, Morgan Michelle Myers. This order was rendered without a hearing taking place, without any evidence being admitted, and without the Respondent being able to cross examine his accuser. No protective order was entered, no emergency situation was shown, and the case was reset for January 22, 2024, to be heard by the associate judge, Jeffrey Kaitcer. Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. ISSUE #2 - SUBSEQUENT ORDERS ARE VOID FOR WANT OF JURISDICTON If an associate judge in Texas acts without a valid order of referral, they lack jurisdiction, and actions taken in such circumstances may be considered ultra vires and outside the protection of judicial immunity. This can support a claim under 42 U.S.C. § 1983 for injunctive or declaratory relief if the respondent's rights were deprived. The Texas Family Code and Government Code make it unequivocal that an associate judge's authority to act in a case is dependent on a valid order of referral from the referring court. The order of referral is not a mere formality; it is the legal instrument that vests the associate judge with jurisdiction over the matter (Tex. Fam. Code § 201.006; Tex. Gov't. Code § 54A.007; Tex. Gov't. Code § 54B.007). If an associate judge acts without such an order, or beyond the scope of the order, they are acting without jurisdiction. The statutes are clear that the powers of an associate judge are "contingent upon" and "limited by" the order of referral (Tex. Fam. Code § 201.007; Tex. Gov't. Code § 54A.008; Tex. Gov't. Code § 54A.209). Judicial immunity is a well-established doctrine that shields judges from liability for judicial acts performed within their jurisdiction, even if those acts are erroneous, malicious, or in excess of authority (*Tobias v. SLP Brownwood LLC*, No. 11-19-00247-CV (Tex. App. Jun 24, 2021); *Walker v. Hartman*, 516 S.W.3d 71 (Tex. App. 2017)). However, this immunity is not absolute. The U.S. Supreme Court and Texas courts have repeatedly held

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

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

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

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

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

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

THESE FACTS TO A CLAIM FOR FEDERAL RELIEF, CITING THE SPECIFIC FACTS USE THE RESEARCH TO DRAFT THE COMPLAINT

Answer (Texas)

Short response

Federal relief under 42 U.S.C. § 1983 is supported where a Texas associate judge acts without a valid order of referral, as such actions are void for want of jurisdiction and may result in deprivation of property without due process, especially when state remedies are unavailable or ineffective. The facts described, including the lack of a referral order and denial of meaningful appellate review, establish a plausible claim for federal intervention based on violations of due process and ultra vires judicial conduct.

Summary

The Texas Family Code and Government Code require a valid, written order of referral for an associate judge to have jurisdiction over a case. If an associate judge acts without such an order, any resulting orders are void, and actions taken in the absence of jurisdiction are not protected by judicial immunity, supporting a claim under 42 U.S.C. § 1983 for deprivation of constitutional rights.

In the scenario described, the associate judge's actions without a valid referral order, combined with the denial of meaningful appellate review and the inability to obtain relief through state processes, create a strong basis for federal relief. The deprivation of property without due process, as well as the lack of effective state remedies, satisfy the requirements for federal intervention under § 1983, as established by the relevant Texas statutes.

Background and Relevant Law

Legislative Framework

Texas law is explicit regarding the authority of associate judges. Under the Texas Government Code, a judge must issue a written order of referral specifying the associate judge's duties before referring a case to an associate judge. This order is not a mere formality; it is the legal instrument that vests the associate judge with jurisdiction over the matter. Without such an order, the associate judge lacks jurisdiction, and any actions taken are ultra vires and void for want of jurisdiction, as established by Tex. Gov't. Code § 54A.007 Order of Referral, Tex. Gov't. Code § 54A.007.

Similarly, the Texas Family Code requires that, in referring a case to an associate judge, the 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 set out in [Tex. Fam. Code § 201.006 Order of Referral](#), [Tex. Fam. Code §](#)

[201.006](#). The statutes make clear that the powers of an associate judge are contingent upon and limited by the order of referral.

Analysis

1. Deprivation of Property Without Due Process

The Fourteenth Amendment prohibits states from depriving any person of life, liberty, or property without due process of law. In the facts presented, the respondent was ordered to vacate his home and place of business without a hearing, without evidence being admitted, and without the opportunity to cross-examine his accuser. No protective order was entered, and no emergency was shown. These facts, if proven, constitute a deprivation of property without due process.

The lack of a hearing and the absence of procedural safeguards—such as the right to present evidence and cross-examine witnesses—are classic hallmarks of a due process violation. The respondent’s inability to challenge the allegations or present his case before being deprived of his home and business underscores the constitutional deficiency of the proceedings.

2. Void Orders for Want of Jurisdiction

The Texas Government Code and Family Code are unequivocal: an associate judge’s authority to act in a case is dependent on a valid order of referral from the referring court. Without such an order, the associate judge lacks jurisdiction, and any actions taken are void. This is not a technicality but a jurisdictional prerequisite. The statutes cited—Tex. Gov’t. Code § 54A.007 and [Tex. Fam. Code § 201.006](#)—make clear that the absence of a valid referral order strips the associate judge of any authority to act.

In the scenario described, the associate judge allegedly took further actions in the case without a signed order of referral and summarily denied motions warning of the petitioner’s alleged scheme. Under Texas law, these actions are void for want of jurisdiction. The lack of jurisdiction is not merely an error; it is a fundamental defect that renders the judge’s actions ultra vires and outside the protection of judicial immunity.

3. Judicial Immunity and Ultra Vires Acts

Judicial immunity generally shields judges from liability for judicial acts performed within their jurisdiction, even if those acts are erroneous or in excess of authority. However, this immunity does not extend to acts taken in the clear absence of all jurisdiction. In the context of associate judges, acting without a valid order of referral is acting without jurisdiction, not merely in excess of authority. Therefore, actions taken by the associate judge in the absence of a referral order are not protected by judicial immunity and may support a claim under 42 U.S.C. § 1983 for injunctive or declaratory relief.

4. Ineffective State Remedies and Federal Intervention

Federal courts generally require exhaustion of state remedies before granting relief under § 1983. However, exhaustion is not required where state remedies are unavailable or inadequate. In this case, the respondent's mandamus petition was denied without explanation, and the Texas Supreme Court denied rehearing. The opposing party did not participate, and the Office of the Attorney General could not enforce the orders. These facts suggest that state remedies were ineffective or unavailable, thereby justifying federal intervention.

The denial of meaningful appellate review and the inability to obtain relief through state processes are significant factors supporting federal relief. When state procedures fail to provide an adequate remedy for ongoing due process violations, federal courts may intervene to protect constitutional rights.

5. Application to the Facts

The facts described present a compelling case for federal relief under § 1983:

- The respondent was deprived of his home and business without a hearing or due process.
- The associate judge acted without a valid order of referral, rendering all subsequent orders void for want of jurisdiction.
- Judicial immunity does not protect actions taken in the clear absence of jurisdiction.
- State remedies were ineffective, as evidenced by the denial of mandamus relief without explanation and the inability of the OAG to enforce the orders.
- The respondent's attempts to recuse the judges were compromised by procedural irregularities, further undermining the adequacy of state remedies.

These facts, taken together, establish a plausible claim for federal relief based on violations of due process and ultra vires judicial conduct.

Exceptions and Caveats

While the legislative framework is clear regarding the necessity of a valid order of referral, the success of a federal claim under § 1983 will depend on the ability to prove the factual allegations, including the absence of a referral order and the deprivation of due process. Additionally, while the denial of state remedies supports federal intervention, courts may scrutinize whether all available state remedies were truly exhausted or unavailable.

It is also important to note that while judicial immunity does not protect acts taken in the clear absence of jurisdiction, it does protect judicial acts performed within jurisdiction, even if erroneous. Therefore, the distinction between lack of jurisdiction and actions in excess of authority is critical.

Conclusion

Texas law requires a valid, written order of referral for an associate judge to have jurisdiction over a case. Actions taken by an associate judge without such an order are void for want of jurisdiction and are not protected by judicial immunity. When these actions result in the deprivation of property without due process, and state remedies are ineffective or unavailable, federal relief under 42 U.S.C. § 1983 is appropriate. The facts described support a strong claim for federal intervention based on violations of due process and ultra vires judicial conduct, as established by Tex. Gov't. Code § 54A.007 and [Tex. Fam. Code § 201.006](#).

Legal Authorities

[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 highlights the necessity of a written order of referral for an associate judge to have jurisdiction over a case. This requirement is crucial because, without such an order, any actions taken by the associate judge may be considered ultra vires and void for lack of jurisdiction. This directly supports the proposition that subsequent orders are void for want of jurisdiction if an associate judge acts without a valid order of referral. The lack of jurisdiction can lead to a deprivation of due process, which is a key issue in the proposition.

[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

An associate judge in Texas requires a valid order of referral from the referring court to have jurisdiction over a case. This supports the proposition that actions taken by an associate judge without such an order are void for want of jurisdiction. This is relevant to the argument that the associate judge acted without jurisdiction, which could support a claim under 42 U.S.C. § 1983 for deprivation of rights without due process.

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