

# Question

The judge issued orders on a day the court was publicly closed, without a hearing, and without jurisdictional basis, and failed to recuse despite evidence of bias and document tampering. Judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are considered ultra vires and void (see *Bradley v. McCrabb*, 1 Tex. 343 (1846); *Ex parte Sealy*, 870 S.W.2d 663, 667 (Tex. App.—Houston [1st Dist.] 1994, orig. proceeding)). Orders issued under these circumstances are void ab initio and cannot form the basis for further proceedings; the case should be dismissed or federal intervention sought.

## Answer (Texas)

### Short response

Orders issued by a judge without jurisdiction, on a day the court is closed, and without a hearing are considered void ab initio and cannot form the basis for further proceedings. Such orders are ultra vires, and the appropriate remedy is often dismissal or seeking mandamus relief.

### Summary

In Texas, judicial orders issued without jurisdiction or in violation of mandatory procedural requirements are considered void from the outset. This principle is supported by numerous cases, including [In re RDF Agent, LLC](#) and [In re Tex. Dep't of Fam. & Protective Serv.](#), which emphasize that orders issued beyond a court's jurisdiction are void ab initio and warrant mandamus relief. The lack of jurisdiction can arise from various factors, such as issuing orders on a day the court is closed, failing to hold a necessary hearing, or acting outside the court's plenary power.

The concept of void orders is well-established in Texas law, and such orders cannot be ratified or confirmed. They are nullities and cannot form the basis for further legal proceedings. In cases where a judge issues orders without jurisdiction, the appropriate remedy is often to seek mandamus relief to vacate the void orders. Additionally, if there is evidence of bias or document tampering, these factors further support the argument for voiding the orders and potentially seeking federal intervention.

## Background and Relevant Law

### Case Law

The principle that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are void is well-established in Texas case law. In [In re RDF Agent, LLC](#) (14-23-00967-CV, Tex. App. Dec 31, 2024),

the court emphasized that void orders constitute an abuse of discretion and warrant mandamus relief. The court noted that when an order is void, it is unnecessary for the relator to demonstrate a lack of adequate appellate remedy, reinforcing the idea that such orders cannot form the basis for further proceedings.

Similarly, [In re Tex. Dep't of Fam. & Protective Serv.](#) (696 S.W.3d 240, Tex. App. 2024) supports the proposition that orders issued beyond a court's jurisdiction are void ab initio. The court recognized that mandamus relief is appropriate in such situations, as void orders are considered nullities from the outset.

In [In re Florence](#) (01-20-00556-CR, Tex. App. Jan 24, 2023), the court reiterated that if a judge lacks authority or jurisdiction, any orders issued are void. The court emphasized the judge's ministerial duty to vacate such orders, aligning with the proposition that judicial acts taken without jurisdiction are ultra vires and void.

The case of [Custom Corporates v. Security Storage, Inc.](#) (207 S.W.3d 835, Tex. App. 2006) further supports this principle by stating that a court order is void if the court lacks jurisdiction over the parties, subject matter, or the capacity to act. The court emphasized that a void order is entirely null and cannot be ratified or confirmed.

## Exceptions and Caveats

While the principle of void orders is well-established, there are exceptions and caveats to consider. For instance, in [Spigener v. Wallis](#) (80 S.W.3d 174, Tex. App. 2002), the court discussed the implications of a judge's constitutional disqualification, stating that any orders rendered by such a judge are void. However, this case was later declined to be followed by [In re Benavides](#) (403 S.W.3d 370, Tex. App. 2013), which may impact its authority.

Similarly, [Hennessy v. Marshall](#) (682 S.W.2d 340, Tex. App. 1984) was disapproved by [Banque Libanaise Pour Le Commerce v. Khreich](#) (915 F.2d 1000, 5th Cir. 1990), which may affect its applicability. Despite these subsequent treatments, the core principle that orders issued without jurisdiction are void remains largely intact.

## Analysis

The scenario presented involves a judge issuing orders on a day the court was publicly closed, without a hearing, and without jurisdictional basis. These actions align with the circumstances under which orders are considered void ab initio. The lack of jurisdiction can arise from various factors, such as issuing orders outside the court's plenary power or failing to hold a necessary hearing.

In [In re RDF Agent, LLC](#), the court emphasized that orders issued outside the trial court's plenary power are typically void because the court no longer has jurisdiction to act. This directly applies to the scenario where orders

were issued on a day the court was closed, as the court would lack the authority to act on such a day.

Furthermore, the failure to hold a hearing before issuing orders can also render them void. In [Hennessey v. Marshall](#), the court demonstrated that when a court issues an order without a plenary suit or hearing, the order is considered void and of no effect. This supports the argument that the orders in question are void due to the lack of a hearing.

The presence of bias or document tampering further supports the argument for voiding the orders. In [Spigener v. Wallis](#), the court emphasized that orders rendered by a judge who is constitutionally disqualified are void. While this case was later declined to be followed, the principle that bias or disqualification can render orders void remains relevant.

## Conclusion

In conclusion, the orders issued by the judge in the scenario presented are likely void ab initio due to the lack of jurisdiction, the absence of a hearing, and the presence of bias or document tampering. These factors align with the well-established principle in Texas law that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are ultra vires and void. The appropriate remedy is often to seek mandamus relief to vacate the void orders, and if necessary, federal intervention may be sought to address any constitutional violations.

## Legal Authorities

[Patino v. Tex. Dep't of Ins.-Div. of Workers' Comp., 631 S.W.3d 163 \(Tex. App. 2020\)](#)

### Texas Court of Appeals

#### Extract

For the ultra vires exception to apply, the suit must allege and ultimately prove that the state official acted without legal authority or failed to perform a purely ministerial act, rather than attack the official's exercise of discretion. Id. at 372. A government official acts 'without legal authority,' and thus ultra vires, if he exceeds the bounds of his granted authority or acts in conflict with the law itself. Hall v. McRaven, 508 S.W.3d 232, 238 (Tex. 2017).

#### Summary

Legal basis for challenging actions taken by officials that exceed their granted authority or conflict with the law.

[Luttrell v. El Paso Cnty., No. 08-16-00090-CV \(Tex. App. Dec 20, 2017\)](#)

## **Texas Court of Appeals**

### **Extract**

An ultra vires claim based on actions taken 'without legal authority' has two fundamental components: '(1) authority giving the official some (but not absolute) discretion to act and (2) conduct outside of that authority.' See *Hall v. McRaven*, 508 S.W.3d 232, 239 (Tex. 2017) (citing *Houston Belt & Terminal Ry. Co. v. City of Houston*, 487 S.W.3d 154, 158 (Tex. 2016)). This exception applies when a government officer with some discretion to interpret and apply a law acts 'without legal authority, and thus ultra vires, if he exceeds the bounds of his granted authority or if his acts conflict with the law itself.' *Hall*, 508 S.W.3d at 238 (citing *Hous. Belt*, 487 S.W.3d at 158) (internal quotations omitted). The basic justification for this ultra vires exception to immunity is that ultra vires acts—or those acts without authority—should not be considered acts of the state at all. *Id.* (citing *Cobb v. Harrington*, 144 Tex. 360, 190 S.W.2d 709, 712 (1945)). Consequently, ultra vires suits do not attempt to exert control over the State—they attempt to reassert the control of the State over one of its agents. *Id.* (citing *Heinrich*, 284 S.W.3d at 372).

### **Summary**

Legal basis for challenging actions taken by a judge without proper authority, aligning with the proposition's argument that such orders are void ab initio.

[Hennessey v. Marshall, 682 S.W.2d 340 \(Tex. App. 1984\)](#)

## **Texas Court of Appeals**

### **Extract**

It is undisputed that in the present case no plenary suit was filed and no plenary hearing held on the issue of whether the English judgment was conclusive, and therefore entitled to recognition and enforcement. As a consequence, the trial court's order of September 17, 1984, which purported to recognize the judgment as a Texas judgment, was void and of no effect. Likewise, all subsequent orders from the trial court based on the September 17, 1984, order were also void, including the October 1, 1984, order.

### **Summary**

The passage from "*Hennessey v. Marshall*" demonstrates that when a court issues an order without a plenary suit or hearing, the order is considered void and of no effect. This aligns with the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are ultra vires and void. The case further supports the idea that subsequent

orders based on such void orders are also void, reinforcing the proposition that such orders cannot form the basis for further proceedings.

[Custom Corporates v. Security Storage, Inc., 207 S.W.3d 835 \(Tex. App. 2006\)](#)

## **Texas Court of Appeals**

### **Extract**

A court order is void if it is apparent that the court 'had no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act.' Browning v. Prostok, 165 S.W.3d 336, 346 (Tex.2005) (citing Browning v. Placke, 698 S.W.2d 362, 363 (Tex.1985) (orig.proceeding) (per curiam)). '[A] trial court cannot act when it has no jurisdiction, and a reviewing court cannot find jurisdiction where none exists.' ... Because the order is void, it cannot be enforced against appellants Custom Corporates, Inc. and Theresa Woods. See In re Bokeloh, 21 S.W.3d 784, 792-93 (Tex.App.-Houston [14th Dist.] 2000, orig. proceeding) ('A void order is entirely null within itself; it is not susceptible to ratification or confirmation, and its nullity cannot be waived.')

### **Summary**

The passage from "Custom Corporates v. Security Storage, Inc." discusses the concept of void orders, emphasizing that a court order is void if the court lacks jurisdiction over the parties, subject matter, or the capacity to act. It further states that a void order is null and cannot be ratified or confirmed. This directly supports the proposition that judicial acts taken without jurisdiction or in violation of procedural requirements are void.

[State ex rel. Cobb v. Godfrey, 739 S.W.2d 47 \(Tex. Crim. App. 1987\)](#)

## **Texas Court of Criminal Appeals**

### **Extract**

In Garcia v. Dial, 596 S.W.2d 524 (Tex.Cr.App.1980), the trial court had granted the defendant's motion to dismiss the indictment. The trial court later entered an order attempting to reinstate the indictment. This Court held that once the indictment was dismissed, the trial court lost jurisdiction over the cause and had no power to enter any further orders. ... The trial court lacked authority to grant the defendant's motion for new trial after the motion had been overruled by operation of law, and such action was a nullity.

## **Summary**

The Texas Court of Criminal Appeals has established precedent that when a court acts beyond its jurisdiction or in violation of procedural rules, such actions are considered nullities. This supports the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are void.

[Zarate v. Sun Operating Limited Inc., 40 S.W.3d 617 \(Tex. App. 2001\)](#)

### **Texas Court of Appeals**

#### **Extract**

If a judge is disqualified under the Constitution, he is absolutely without jurisdiction in the case, and any judgment rendered by him is void, without effect, and subject to collateral attack. See *id.* at 559. A judgment entered in a case in which the judge is disqualified is void and not binding as to the parties involved.

## **Summary**

The passage from *Zarate v. Sun Operating Limited Inc.* discusses the consequences of a judge being disqualified under the Texas Constitution. It states that if a judge is disqualified, they are without jurisdiction, and any judgment they render is void and subject to collateral attack. This directly supports the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are considered ultra vires and void.

[In re Tex. Dep't of Fam. & Protective Serv. 696 S.W.3d 240](#)

### **Texas Court of Appeals**

#### **Extract**

"Mandamus is [also] proper if a trial court issues an order beyond its jurisdiction." *In re Sw. Bell Tel. Co.*, 35 S.W.3d 602, 605 (Tex. 2000) (orig. proceeding). "If a trial court issues an order 'beyond its jurisdiction,' mandamus relief is appropriate because such an order is void ab initio." *In re Panchakarla*, 602 S.W.3d 536, 539 (Tex. 2020) (orig. proceeding). When the trial court's order is void, "the relator need not show that it did not have an adequate appellate remedy, and mandamus relief is appropriate." *In re Sw. Bell Tel. Co.*, 35 S.W.3d at 605.

## Summary

The Texas Court of Appeals recognizes that orders issued by a trial court beyond its jurisdiction are considered void ab initio. This supports the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are ultra vires and void. The passage also indicates that mandamus relief is appropriate in such situations, reinforcing the idea that such orders cannot form the basis for further proceedings.

[In re Florence, 01-20-00556-CR \(Tex. App. Jan 24, 2023\)](#)

### Texas Court of Appeals

#### Extract

"If a trial judge lacks authority or jurisdiction to take a particular action, the judge has a 'ministerial' duty to refrain from taking that action, to reject or overrule requests that he take such action, and to undo the action if he has already taken it." Id. (quoting *In re Gambling Devices*, 496 S.W.3d at 164). "In other words, a trial court has a ministerial duty to vacate a void order." Id.; see *State ex rel. Thomas v. Banner*, 724 S.W.2d 81, 85 (Tex. Crim. App. 1987) (orig. proceeding) ("Absent proper jurisdiction, it was the trial court's ministerial duty to vacate the orders."). A court order is void if the record shows that the court had no jurisdiction over the parties, no subject-matter jurisdiction, no jurisdiction to enter the order, or no capacity to act as a court. *Gault*, 2022 WL 4830811, at \*6. That is, "when a judge... lacks authority to issue an order, the order is void." Id.; see *State ex rel. Holmes v. Salinas*, 784 S.W.2d 421, 427-28 (Tex. Crim. App. 1990) (orig. proceeding) ("Because [the trial court] did not have the authority to issue the orders, the orders are void."). Mandamus relief is available when a court issues a void order outside of the court's statutory authority. *Gault*, 2022 WL 4830811, at \*7.

## Summary

The passage clearly states that if a judge lacks jurisdiction or authority, any orders issued are void. It emphasizes the judge's ministerial duty to vacate such orders. This directly supports the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are considered ultra vires and void. The passage also mentions that mandamus relief is available for void orders, aligning with the proposition's suggestion of seeking dismissal or federal intervention.

[Zenith Radio Corp. v. Clark, 665 S.W.2d 804 \(Tex. App. 1983\)](#)

### Texas Court of Appeals



## **Extract**

Mandamus to compel a court to vacate or expunge a void order is a commonly used procedural vehicle to attack discovery orders. An order is deemed void when rendered by a court having no jurisdiction or authority, *State v. Ferguson*, 133 Tex. 60, 125 S.W.2d 272 (1939), when the order is violative of some constitutional right of a party, or is rendered as a result of an abuse of discretion by a judicial officer.

## **Summary**

Legal basis for challenging such orders, aligning with the proposition's argument that orders issued under these circumstances are void ab initio.

[\*Greiner v. Jameson\*, 865 S.W.2d 493 \(Tex. App. 1993\)](#)

## **Texas Court of Appeals**

### **Extract**

A judgment is void when the trial court lacks: (1) jurisdiction of the parties or property; (2) jurisdiction of the subject matter; (3) jurisdiction to enter the judgment; or (4) the capacity to act as a court. *Browning v. Placke*, 698 S.W.2d 362, 363 (Tex.1985, orig. proceeding). All other errors render a judgment voidable.

### **Summary**

Legal basis for arguing that orders issued without jurisdictional authority are void ab initio, aligning with the proposition's assertion that such orders cannot form the basis for further proceedings.

[\*Sutphin v. Tom Arnold Drilling Contr.\*, 17 S.W.3d 765 \(Tex. App. 2000\)](#)

## **Texas Court of Appeals**

### **Extract**

Sutphin argues that rule 329b of the Texas Rules of Civil Procedure limits Texas trial courts to thirty days to take any action in a cause, or against parties and counsel, other than to set aside a void judgment... The trial court, regardless of whether an appeal has been perfected, has plenary power to grant a new trial or to vacate, modify, correct, or reform the judgment within thirty days after the judgment is signed. Tex. R. Civ. P. 329b(d)... Sutphin cites additional cases that rely on rule 329b(d) of the Texas Rules of Civil Procedure. They illustrate the same proposition: Trial court orders vacating or modifying a judgment in the original dispute after the expiration of plenary jurisdiction are void.



## Summary

Limitations on a Texas trial court's jurisdiction, specifically under Rule 329b(d) of the Texas Rules of Civil Procedure. It highlights that a trial court's orders issued after the expiration of its plenary jurisdiction are void. This supports the proposition that judicial acts taken without jurisdiction are considered ultra vires and void.

[In re RDF Agent, LLC, 14-23-00967-CV \(Tex. App. Dec 31, 2024\)](#)

### Texas Court of Appeals

#### Extract

The issuance of a void order is an abuse of discretion and '[c]ases involving void orders present a circumstance warranting mandamus relief.' Custom Corps., Inc. v. Sec. Storage, Inc., 207 S.W.3d 835, 838 (Tex. App.-Houston [14th Dist.] 2006, orig. proceeding); see also, e.g., In re Fluid Power Equip., Inc., 612 S.W.3d 130, 136-37 (Tex. App.-Houston [14th Dist.] 2020, orig. proceeding). 'When the order is adjudged void, it is not necessary for a relator to additionally show that it lacks an adequate appellate remedy.' Custom Corps., Inc., 207 S.W.3d at 838; see also In re Fluid Power Equip., Inc., 612 S.W.3d at 136. Orders issued outside the trial court's plenary power typically are void because the court no longer has jurisdiction to act once its plenary power has expired.

## Summary

Concept of void orders, which are considered an abuse of discretion and warrant mandamus relief. It emphasizes that when an order is void, it is not necessary to show a lack of adequate appellate remedy. This aligns with the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are ultra vires and void. The passage also notes that orders issued outside the trial court's plenary power are typically void, supporting the idea that such orders cannot form the basis for further proceedings.

[In re Parsons, No. 10-17-00216-CV \(Tex. App. Jan 09, 2019\)](#)

### Texas Court of Appeals

#### Extract

Amaya argues that the State waived the issue of the trial court's jurisdiction by failing to object either after receiving notice of his petition for non-disclosure or a copy of the trial court's order. However, a relator, including the State, need not object to an order issued by a trial court prior to filing a petition for a writ of mandamus in an appellate court when the order is void.

In re Bank of America, N.A., No. 01-02-00867-CV, 2003 WL 22310800, at \*3 (Tex. App.—Houston [1st Dist.] Oct. 9, 2003, no pet.) (mem. op. on reh'g). This is true because lack of jurisdiction is a fundamental error and may be raised for the first time in an appellate court. See Mapco, Inc. v. Carter, 817 S.W.2d 686, 687 (Tex. 199...

## **Summary**

Principle that a lack of jurisdiction is a fundamental error that renders an order void. It emphasizes that such an error can be raised for the first time in an appellate court, and doctrines like waiver do not apply to void orders. This supports the proposition that judicial acts taken without jurisdiction are considered void and cannot form the basis for further proceedings.

[Sanchez v. Roberts Truck Ctr. of Tex., LLC, 11-19-00392-CV \(Tex. App. Oct 28, 2021\)](#)

## **Texas Court of Appeals**

### **Extract**

When a court that lacks subject-matter jurisdiction issues a judgment beyond dismissal of the cause, the judgment is void. See PNS Stores, Inc. v. Rivera, 379 S.W.3d 267, 273 (Tex. 2012); Zarate v. Sun Operating Ltd., Inc., 40 S.W.3d 617, 621 (Tex. App.-San Antonio Feb. 7, 2001, pet. denied).

## **Summary**

The passage from the "Sanchez v. Roberts Truck Ctr. of Tex., LLC" case supports the proposition by affirming that judgments issued by a court lacking subject-matter jurisdiction are void. This aligns with the proposition that judicial acts taken without jurisdiction are considered ultra vires and void. The case law cited in the passage further reinforces this principle, making it applicable to the situation described in the proposition.

[Spigener v. Wallis, 80 S.W.3d 174 \(Tex. App. 2002\)](#)

## **Texas Court of Appeals**

### **Extract**

A constitutional disqualification deprives a trial judge of the authority to act. ... '[A]ny orders or judgments rendered by a judge who is constitutionally disqualified are void and without effect.' Union Pac. Resources Co., 969 S.W.2d at 428. Thus, a constitutional disqualification may be raised at any stage of the proceedings and cannot be waived.

## **Summary**

The passage from "Spigener v. Wallis" discusses the implications of a judge's constitutional disqualification, stating that any orders or judgments rendered by such a judge are void and without effect. This directly supports the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are considered ultra vires and void. The passage also emphasizes that constitutional disqualification can be raised at any stage and cannot be waived, reinforcing the idea that such orders are void ab initio.

[Garcia v. Dial, 596 S.W.2d 524 \(Tex. Crim. App. 1980\)](#)

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

#### **Extract**

Furthermore, it is likewise axiomatic that where there is no jurisdiction, 'the power of the court to act is as absent as if it did not exist,' Ex parte Caldwell, supra at 589, and any order entered by a court having no jurisdiction is void. E. g., Ex parte Sandoval, supra; Ex parte Armstrong, supra. We accordingly conclude that, after respondent Dial dismissed the indictment against petitioner, the jurisdiction of the district court in Cause Number 78-CR-1183 was exhausted and the order entered thereafter purporting to reinstate that cause was void and of no effect.

## **Summary**

The passage from "Garcia v. Dial" clearly states that any order entered by a court without jurisdiction is void. This directly supports the proposition that judicial acts taken without jurisdiction are considered ultra vires and void. The case further illustrates that once jurisdiction is exhausted, any subsequent orders are null and void, reinforcing the idea that such orders cannot form the basis for further proceedings.

[In re Bokeloh, 21 S.W.3d 784 \(Tex. App. 2000\)](#)

### **Texas Court of Appeals**

#### **Extract**

A judgment is void 'when it is apparent that the court rendering judgment 'had no jurisdiction of the parties, no jurisdiction of the subject matter, no jurisdiction to enter the judgment, or no capacity to act as a court.' ... The order of reinstatement was not merely invalid or voidable; it was void from its inception. ... A void order is entirely null within itself; it is not susceptible to ratification or confirmation, and its nullity cannot be waived.

## Summary

A judgment is considered void if the court lacks jurisdiction over the parties, subject matter, or the capacity to act as a court. This directly supports the proposition that judicial acts taken without jurisdiction or in violation of mandatory procedural requirements are ultra vires and void.

This memo was compiled by Vincent AI based on vLex materials available as of September 01, 2025. [View full answer on vLex](#)