

## **Question**

Under what circumstances does judicial or quasi-judicial immunity not apply to judges or court staff in Texas, particularly in the context of alleged RICO predicate acts or document tampering?

## **Answer (Texas)**

### **Short response**

Judicial and quasi-judicial immunity in Texas does not apply when judges or court staff act outside their judicial capacity or in the complete absence of all jurisdiction, and immunity is also inapplicable to criminal conduct such as document tampering or other acts that constitute willful violations of penal statutes, including those that could serve as RICO predicate acts. Thus, allegations of document tampering or similar criminal acts by judges or court staff fall outside the protection of judicial immunity if the conduct is nonjudicial or entirely beyond the court's jurisdiction.

### **Summary**

In Texas, judicial and quasi-judicial immunity is robust, shielding judges and court staff from civil liability for actions taken in their official judicial capacity and within their jurisdiction, even if those actions are erroneous, malicious, or exceed their authority. However, this immunity is not absolute: it does not protect actions that are nonjudicial in nature, taken in the complete absence of all jurisdiction, or constitute criminal conduct such as document tampering or other willful violations of penal statutes.

Specifically, Texas statutes and case law make clear that immunity does not extend to criminal acts, including tampering with governmental records or creating fraudulent court documents, and that judges may be subject to removal, discipline, or prosecution for such conduct. In the context of alleged RICO predicate acts or document tampering, if the conduct is not part of a judicial function or is criminal in nature, immunity will not apply, and both judges and court staff may face civil or criminal liability.

## **Background and Relevant Law**

### **Legislative Framework**

Texas law provides a comprehensive framework for judicial and quasi-judicial immunity, but also delineates clear exceptions, particularly for criminal conduct:

- **Texas Penal Code § 37.10 (Tampering With Governmental Record):** This statute criminalizes knowingly making false entries, altering, destroying, concealing, or impairing governmental records, as

well as presenting or using false records with intent to defraud. The statute applies to any person, including judges and court staff, and explicitly provides for criminal liability for such acts, regardless of the actor's official status. Immunity does not shield individuals from prosecution under this statute ([Tex. Pen. Code § 37.10](#)).

- **Texas Penal Code § 37.13 (Record of a Fraudulent Court):** This provision criminalizes the creation, presentation, or use of documents purporting to be court records when the actor knows they are not genuine and intends them to have legal effect. Again, this applies to all persons, including judges and court staff, and immunity does not protect against prosecution for such conduct ([Tex. Pen. Code § 37.13](#)).
- **Texas Constitution, Article 5, § 1-a:** This constitutional provision authorizes the removal, discipline, or suspension of judges for willful or persistent violations of rules, incompetence, willful violation of the Code of Judicial Conduct, or conduct that discredits the judiciary. It also provides for suspension upon indictment for a felony or a misdemeanor involving official misconduct, indicating that immunity does not protect against criminal prosecution or disciplinary action for such acts ([Tex. Const. art. 5 § 1-a](#)).
- **Texas Civil Practice and Remedies Code § 101.053:** This statute generally provides immunity to courts and court staff for acts or omissions performed in their official capacity or as part of a judicial function, but does not address exceptions for criminal conduct, suggesting that such claims fall outside the scope of this immunity ([Tex. Civ. Prac. and Rem. Code § 101.053](#)).
- **Texas Government Code § 33.001 (Effective 9/1/2025):** This provision clarifies that willful or persistent conduct inconsistent with judicial duties includes violations of penal statutes or the Code of Judicial Conduct, further supporting the principle that immunity does not extend to such conduct ([Tex. Gov't. Code § 33.001](#)).

## Case Law

Texas courts have consistently articulated the boundaries of judicial and quasi-judicial immunity:

- **General Rule:** Judicial immunity protects judges from civil liability for acts performed in their judicial capacity and within their jurisdiction, even if those acts are erroneous, malicious, or exceed their authority ([Miller v. Plumlee, 05-21-00431-CV \(Tex. App. Apr 08, 2022\)](#); [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 \(Tex. App. 2004\)](#)).
- **Exceptions:** Immunity is overcome in two circumstances: (1) when the act is nonjudicial in nature (i.e., not taken in the judge's official capacity), or (2) when the act is taken in the complete absence of all jurisdiction ([Miller v. Plumlee, 05-21-00431-CV \(Tex. App. Apr 08,](#)

2022); [Partain v. Gabert, 13-21-00037-CV \(Tex. App. Aug 26, 2021\)](#); [West v. Robinson, 486 S.W.3d 669 \(Tex. App. 2016\)](#); [James v. Underwood, NO. 01-13-00277-CV \(Tex. App. May 08, 2014\)](#)).

- **Application to Court Staff:** Quasi-judicial immunity extends to court staff and officers who act as arms of the court, provided they perform functions intimately associated with the judicial process and act in good faith within the scope of their authority ([Delcourt v. Silverman, 919 S.W.2d 777 \(Tex. App. 1996\)](#); [Alcorn v. Vaksman, 877 S.W.2d 390 \(Tex. App. 1994\)](#); [GAB Business Services, Inc. v. Moore, 829 S.W.2d 345 \(Tex. App. 1992\)](#)).
- **Administrative and Nonjudicial Acts:** Immunity does not apply to nonjudicial, administrative acts, such as employment decisions or other functions not directly related to adjudication ([B.K. v. Cox, 116 S.W.3d 351 \(Tex. App. 2003\)](#); [Guerrero v. Refugio County, 946 S.W.2d 558 \(Tex. App. 1997\)](#), but note this case was overruled by [Perry v. Del Rio, 53 S.W.3d 818 \(Tex. App. 2001\)](#), which limits its authority).
- **Criminal Conduct:** Texas courts and statutes make clear that immunity does not shield judges or court staff from criminal prosecution for acts such as document tampering or other willful violations of penal statutes ([Tex. Pen. Code § 37.10](#); [Tex. Pen. Code § 37.13](#); [Tex. Const. art. 5 § 1-a](#)).

## Analysis

### Judicial and Quasi-Judicial Immunity: Scope and Rationale

Judicial immunity in Texas is designed to protect the independence and integrity of the judiciary by shielding judges from civil liability for acts performed in their judicial capacity and within their jurisdiction. This protection extends to quasi-judicial officers and court staff when they perform functions intimately associated with the judicial process and act in good faith within the scope of their authority ([Delcourt v. Silverman, 919 S.W.2d 777 \(Tex. App. 1996\)](#); [Alcorn v. Vaksman, 877 S.W.2d 390 \(Tex. App. 1994\)](#)).

The rationale is to allow judges and court staff to perform their duties without fear of personal liability, even if their decisions are unpopular, erroneous, or made in bad faith ([Miller v. Plumlee, 05-21-00431-CV \(Tex. App. Apr 08, 2022\)](#); [Partain v. Gabert, 13-21-00037-CV \(Tex. App. Aug 26, 2021\)](#)). This immunity is not, however, a license for criminal or nonjudicial conduct.

## **Exceptions to Immunity: Nonjudicial Acts and Absence of Jurisdiction**

The Texas courts have consistently held that judicial immunity is not absolute. There are two well-established exceptions:

1. **Nonjudicial Acts:** If a judge or court staff member engages in conduct that is not part of their judicial or quasi-judicial functions—such as administrative decisions unrelated to adjudication, or personal conduct outside the scope of their office—immunity does not apply ([Walker v. Hartman, 516 S.W.3d 71 \(Tex. App. 2017\)](#); [B.K. v. Cox, 116 S.W.3d 351 \(Tex. App. 2003\)](#); [Guerrero v. Refugio County, 946 S.W.2d 558 \(Tex. App. 1997\)](#), but see subsequent overruling).
2. **Complete Absence of Jurisdiction:** If the act is performed in the complete absence of all jurisdiction—meaning the judge or staff member had no legal authority to act in the matter—immunity is not available ([West v. Robinson, 486 S.W.3d 669 \(Tex. App. 2016\)](#); [James v. Underwood, NO. 01-13-00277-CV \(Tex. App. May 08, 2014\)](#); [City of Houston v. West Capital Financial Services Corp., 961 S.W.2d 687 \(Tex. App. 1998\)](#)).

The courts have clarified that even if a judge acts in error, with malice, or in excess of authority, immunity generally applies as long as the act is judicial in nature and within some subject-matter jurisdiction ([Feist v. Gist, NO. 09-18-00255-CV \(Tex. App. Oct 24, 2019\)](#); [James v. Underwood, NO. 01-13-00277-CV \(Tex. App. May 08, 2014\)](#)).

## **Criminal Conduct: Document Tampering and RICO Predicate Acts**

Texas law is explicit that judicial and quasi-judicial immunity does not protect against criminal liability. Statutes such as Texas Penal Code § 37.10 and § 37.13 criminalize tampering with governmental records and the creation or use of fraudulent court documents, respectively. These statutes apply to all persons, including judges and court staff, and make no exception for official status ([Tex. Pen. Code § 37.10](#); [Tex. Pen. Code § 37.13](#)).

If a judge or court staff member knowingly falsifies, alters, destroys, or conceals a governmental record, or creates a fraudulent court document with intent to give it legal effect, they are subject to criminal prosecution. Judicial immunity does not shield against such prosecution, nor does it prevent removal, discipline, or suspension for such conduct ([Tex. Const. art. 5 § 1-a](#); [Tex. Gov't. Code § 33.001](#)).

In the context of alleged RICO predicate acts, such as obstruction of justice, bribery, or document tampering, the same principles apply. If the conduct is criminal in nature and not part of a legitimate judicial function, immunity is unavailable. The Texas Constitution and statutes provide mechanisms for removal, discipline, and prosecution of judges for willful violations of penal statutes or conduct that discredits the judiciary ([Tex. Const. art. 5 § 1-a](#); [Tex. Gov't. Code § 33.001](#)).

## **Application to Court Staff and Quasi-Judicial Officers**

Quasi-judicial immunity extends to court staff and officers who act as arms of the court, provided they perform functions intimately associated with the judicial process and act in good faith within the scope of their authority ([Delcourt v. Silverman, 919 S.W.2d 777 \(Tex. App. 1996\)](#); [Alcorn v. Vaksman, 877 S.W.2d 390 \(Tex. App. 1994\)](#)). However, if court staff engage in criminal conduct, act outside the scope of their official duties, or act in bad faith, immunity does not apply ([GAB Business Services, Inc. v. Moore, 829 S.W.2d 345 \(Tex. App. 1992\)](#)).

The Texas Supreme Court has also recognized that failure by a judge to supervise court staff can constitute judicial misconduct, particularly if it results in violations of the Code of Judicial Conduct or criminal statutes ([In re Rose, 144 S.W.3d 661 \(Tex. 2004\)](#)).

## **Civil vs. Criminal Liability**

While judicial immunity is primarily a defense to civil liability, it does not bar criminal prosecution. Texas statutes and constitutional provisions make clear that judges and court staff are subject to criminal prosecution for violations of penal statutes, including those involving document tampering or fraudulent court records ([Tex. Pen. Code § 37.10](#); [Tex. Pen. Code § 37.13](#); [Tex. Const. art. 5 § 1-a](#)).

Additionally, judicial immunity does not bar prospective injunctive relief against a judicial officer acting in a judicial capacity ([Twilligear v. Carrell, 148 S.W.3d 502 \(Tex. App. 2004\)](#)).

## **Exceptions and Caveats**

- **Good Faith Requirement for Quasi-Judicial Immunity:** For court staff and quasi-judicial officers, immunity requires that the individual act in good faith, within the scope of their authority, and perform discretionary functions. If any of these elements are lacking, immunity does not apply ([Alcorn v. Vaksman, 877 S.W.2d 390 \(Tex. App. 1994\)](#); [GAB Business Services, Inc. v. Moore, 829 S.W.2d 345 \(Tex. App. 1992\)](#)).
- **Administrative Acts:** Immunity does not extend to nonjudicial, administrative acts, such as employment decisions, as clarified by the U.S. Supreme Court in *Forrester v. White* and adopted by Texas courts ([B.K. v. Cox, 116 S.W.3d 351 \(Tex. App. 2003\)](#); [Guerrero v. Refugio County, 946 S.W.2d 558 \(Tex. App. 1997\)](#), but see subsequent overruling).
- **Subsequent Negative Treatment:** The case [Guerrero v. Refugio County, 946 S.W.2d 558 \(Tex. App. 1997\)](#) was overruled by *Perry v. Del Rio*, 53 S.W.3d 818 (Tex. App. 2001) to the extent it conflicted with the latter's interpretation of the scope of judicial immunity in civil rights

contexts. This limits the authority of Guerrero, but the general principle that immunity does not apply to nonjudicial acts remains valid.

- **Derived Immunity for Court Staff:** The functional approach adopted by Texas courts means that court staff may be entitled to immunity if their conduct is intimately associated with the judicial process and discretionary in nature ([Jones v. Sherry, NO. 03-18-00279-CV \(Tex. App. Jun 28, 2019\)](#)).

## Conclusion

Judicial and quasi-judicial immunity in Texas is broad but not absolute. It protects judges and court staff from civil liability for actions taken in their judicial capacity and within their jurisdiction, even if those actions are erroneous or malicious. However, immunity does not apply to nonjudicial acts, actions taken in the complete absence of jurisdiction, or criminal conduct such as document tampering or other willful violations of penal statutes. Texas statutes and constitutional provisions make clear that judges and court staff are subject to criminal prosecution and disciplinary action for such conduct, and immunity does not shield them from liability in these circumstances. In the context of alleged RICO predicate acts or document tampering, if the conduct is not part of a legitimate judicial function or is criminal in nature, immunity will not apply, and both judges and court staff may face civil or criminal liability.

## Legal Authorities

[B.K. v. Cox, 116 S.W.3d 351 \(Tex. App. 2003\)](#)

### Texas Court of Appeals

#### Extract

Some cases using the functional approach have held that certain administrative functions of judges are not part of the judicial function and therefore are outside the scope of judicial immunity. See, e.g., *Forrester v. White*, 484 U.S. 219, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988) (holding judge not able to invoke judicial immunity in § 1983 damages action against him for employment decision made in the exercise of his administrative functions). However, the case before us today does not involve nonjudicial, administrative functions, and cases such as *Forrester* only reinforce the principle that judges or those whom they appoint are entitled to absolute immunity for alleged acts and omissions during the performance of functions intimately associated with the judicial process.

### Summary

Judicial immunity does not apply to nonjudicial, administrative functions of judges. This suggests that if a judge or court staff were involved in actions that are administrative rather than judicial, such as employment decisions,

they might not be protected by judicial immunity. This is relevant to understanding the limits of judicial immunity in Texas.

[James v. Underwood, NO. 01-13-00277-CV \(Tex. App. May 08, 2014\)](#)

### **Texas Court of Appeals**

#### **Extract**

Having concluded that the judges' acts were judicial in nature, we next consider whether the judges acted in a 'complete absence of all jurisdiction.' Mireles, 502 U.S. at 12, 112 S. Ct. at 288; Bradt, 892 S.W.2d at 68. To overcome judicial immunity, the act must be either nonjudicial, as discussed above, or have occurred in a complete absence of all jurisdiction. Bradt, 892 S.W.2d at 67. In Bradt, a litigant sued a state district judge, arguing that judicial immunity did not attach because there was a recusal motion pending against the judge at the time. This court rejected the argument, noting that the term 'jurisdiction' has a different meaning in the judicial-immunity context. Id. at 67-68. 'Where a court has some subject-matter jurisdiction, there is sufficient jurisdiction for immunity purposes.'

#### **Summary**

Even if there is some subject-matter jurisdiction, judicial immunity is likely to apply. This suggests that for judicial immunity not to apply, the actions must be entirely outside the scope of judicial duties or without any jurisdictional basis.

[Walker v. Hartman, 516 S.W.3d 71 \(Tex. App. 2017\)](#)

### **Texas Court of Appeals**

#### **Extract**

Hartman pleaded that Walker's tortious misconduct stemmed from 'non-judicial actions outside the scope of his jurisdiction as a judge[ ]' and that 'Walker's misconduct was not based on his adjudication of any case lawfully assigned to his court.' ... Although we agree that Walker is entitled to judicial immunity for ordering Hartman's arrest when a disturbance (regardless of the cause of the disturbance) involving Hartman occurred in Walker's courtroom while Walker was presiding, we do not agree that Walker's alleged actions subsequent to Hartman's arrest are protected by judicial immunity. ... As we concluded above, with the exception of ordering Hartman arrested in the courtroom, Walker was not acting in his official capacity when he allegedly committed the acts complained of by Hartman in his pleadings and affidavits. As such, Walker is not entitled to quasi-judicial immunity for the acts which Hartman asserts constitute malicious prosecution and civil conspiracy.

## **Summary**

Judicial and quasi-judicial immunity do not apply to actions taken by a judge that are outside the scope of their judicial duties. In this case, the court found that Walker's actions, apart from ordering an arrest in the courtroom, were not protected by immunity because they were not part of his official judicial functions. This suggests that if a judge's actions are not related to their role in adjudicating cases, such as engaging in a civil conspiracy or malicious prosecution, they may not be protected by immunity.

[Spease v. Olivares, 509 S.W.3d 512 \(Tex. App. 2016\)](#)

## **Texas Court of Appeals**

### **Extract**

We reject this theory because Judge Olivares was dismissed from the lawsuit because of judicial immunity and not sovereign immunity. Thus an exception to sovereign immunity, even were it properly pled, would not apply. And were it otherwise, every judge who ever entered an adverse judgment against a party would be subject to a takings claim, because most judgments divest a person of either property or liberty. Accordingly, we overrule Issue Four. In Issue Five, Appellants maintain that immunity was waived because Judge Olivares traveled to hearings in Hudspeth County in a motor vehicle and the Texas Tort Claims Act waives immunity for property damage which arises from the operation or use of a motor-driven vehicle. TEX.CIV.PRAC. & REM.CODE ANN. § 101.021 (West 2011). We reject this theory for a number of reasons. First, it was never raised in Appellants' Petition, and our sole focus is on whether the last active pleading asserts a claim which is not barred by judicial immunity. Second, Judge Olivares was dismissed on judicial immunity and not sovereign immunity grounds. We are aware of no authority that the Texas Tort Claims Act operates as an exception to judicial immunity. Finally, even if the Tort Claims Act was applicable, the mere fact Judge Olivares drove to court in a motor vehicle does not operate as a general waiver of immunity.

## **Summary**

Judicial immunity in Texas is distinct from sovereign immunity, and exceptions to sovereign immunity do not apply to judicial immunity. The passage also clarifies that the Texas Tort Claims Act does not provide an exception to judicial immunity, even if a judge uses a motor vehicle in the course of their duties. This indicates that judicial immunity is robust and not easily waived by actions that might otherwise fall under exceptions to sovereign immunity.

[Alcorn v. Vaksman, 877 S.W.2d 390 \(Tex. App. 1994\)](#)

## **Texas Court of Appeals**

### **Extract**

Quasi-judicial immunity protects public officials when they (1) act within the course and scope of their office, (2) perform discretionary functions, and (3) act in good faith. Perry, 737 S.W.2d at 110; Anderson v. Higdon, 695 S.W.2d 320, 324 (Tex.App.--Waco 1985, writ ref'd n.r.e.). Quasi-judicial immunity is an affirmative defense. Perry, 737 S.W.2d at 110; Austin v. Hale, 711 S.W.2d 64, 66 (Tex.App.--Waco 1986, no writ). Therefore, the official must plead and prove all of its elements.

### **Summary**

Quasi-judicial immunity in Texas applies to public officials when they act within the course and scope of their office, perform discretionary functions, and act in good faith. This immunity is an affirmative defense, meaning the official must plead and prove all its elements. If any of these elements are not met, quasi-judicial immunity may not apply. The passage does not specifically address RICO predicate acts or document tampering, but it provides a general framework for when quasi-judicial immunity might not apply.

## In re Rose, 144 S.W.3d 661 (Tex. 2004)

### **Texas Supreme Court**

### **Extract**

Accordingly, there is no doubt that the failure to supervise, or the under-supervision of, court staff can constitute judicial misconduct. See generally SHAMAN ET AL., JUDICIAL CONDUCT AND ETHICS § 6.10. Texas Code of Judicial Conduct Canon 3(C) expressly provides that in a judge's discharge of his or her administrative responsibilities, '[a] judge should require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge....' TEX.CODE JUD. CONDUCT, Canon 3(C)(2). In defining 'require' in that context, the Code notes that 'a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control.' Id., Canon 8(B)(11).

### **Summary**

The passage highlights that judicial misconduct can occur if a judge fails to properly supervise court staff. This suggests that judicial immunity might not apply in cases where a judge's failure to supervise leads to misconduct, such as document tampering. The Texas Code of Judicial Conduct requires judges to ensure that their staff adhere to standards of fidelity and diligence, implying that failure to do so could result in liability.

[City of Houston v. West Capital Financial Services Corp., 961 S.W.2d 687 \(Tex. App. 1998\)](#)

## **Texas Court of Appeals**

### **Extract**

Judges enjoy absolute judicial immunity from liability for judicial acts, no matter how erroneous the act or how evil the motive, unless the act is performed in the clear absence of all jurisdiction. *Turner v. Pruitt*, 161 Tex. 532, 342 S.W.2d 422, 423 (1961); *Delcourt v. Silverman*, 919 S.W.2d 777, 781 (Tex.App.--Houston [14th Dist.] 1996, writ denied).

### **Summary**

Judges in Texas have absolute judicial immunity for judicial acts, regardless of the act's correctness or the judge's motive. However, this immunity does not apply if the act is performed in the clear absence of all jurisdiction. This means that if a judge acts outside their jurisdiction, they may not be protected by judicial immunity. The passage does not specifically address RICO predicate acts or document tampering, but it provides a general principle regarding the limits of judicial immunity.

[Miller v. Plumlee, 05-21-00431-CV \(Tex. App. Apr 08, 2022\)](#)

## **Texas Court of Appeals**

### **Extract**

Judicial immunity applies unless the plaintiff can show: (1) the claim is based on some act not taken in the judge's judicial capacity or (2) the judge's actions were taken in the complete absence of all jurisdiction. *Mireles v. Waco*, 502 U.S. 9, 10-12 (1991). It is an immunity from suit, not just from the assessment of damages. *Mireles*, 502 U.S. at 11; *Miranda*, 133 S.W.3d at 224. Further, '[t]his immunity extends to actions that are done in error, maliciously, and even in excess of the judge's authority.' *Twilligear v. Carrell*, 148 S.W.3d 502, 504 (Tex. App.-Houston [14th Dist.] 2004, pet. denied).

### **Summary**

The passage from "Miller v. Plumlee" provides a clear explanation of the circumstances under which judicial immunity does not apply in Texas. It states that judicial immunity is not applicable if the plaintiff can demonstrate that the judge's actions were not taken in their judicial capacity or were taken in the complete absence of all jurisdiction. This immunity is comprehensive, covering actions done in error, maliciously, or even in excess of authority. The scope of this material is broad, as it applies to any case

involving judicial immunity in Texas, not just the specific case of *Miller v. Plumlee*.

[Partain v. Gabert, 13-21-00037-CV \(Tex. App. Aug 26, 2021\)](#)

**Texas Court of Appeals**

**Extract**

There are only two circumstances when judicial immunity can be overcome: (1) when the judge's actions were non-judicial in nature or (2) when the actions were taken in the complete absence of all jurisdiction. See *Mireles v. Waco*, 502 U.S. 9, 11 (1991).

**Summary**

Clear explanation of the two exceptions to judicial immunity: actions that are non-judicial in nature and actions taken in the complete absence of jurisdiction. This is relevant to understanding when judicial immunity might not apply, even in cases involving serious allegations such as RICO predicate acts or document tampering. The context of the passage is a legal judgment, which lends it authority and general applicability within Texas.

[Deyo v. Bradshaw, 14-19-00792-CV \(Tex. App. Aug 05, 2021\)](#)

**Texas Court of Appeals**

**Extract**

Judges acting in their official judicial capacity have immunity from liability and suit for judicial acts performed within the scope of their jurisdiction. ... Judicial immunity is overcome only for actions that are: (1) nonjudicial, i.e., not taken in the judge's official capacity, or (2) taken in the complete absence of all jurisdiction.

**Summary**

Judicial immunity in Texas protects judges from liability for actions taken in their official capacity, even if those actions are erroneous or exceed their authority. However, this immunity does not apply if the actions are nonjudicial or taken in the complete absence of jurisdiction. The passage does not specifically address RICO predicate acts or document tampering, but it provides a general framework for when judicial immunity might not apply.

[West v. Robinson, 486 S.W.3d 669 \(Tex. App. 2016\)](#)

## **Texas Court of Appeals**

### **Extract**

A judge's judicial immunity can be overcome in only two instances: first, where the complained-of actions were non-judicial; and second, where the complained-of actions, though judicial in nature, were 'taken in the complete absence of all jurisdiction.'

### **Summary**

Judicial immunity in Texas is generally absolute, protecting judges from suits for actions taken in their judicial capacity. However, there are two exceptions to this immunity: (1) if the actions were non-judicial, meaning they were not part of the judge's official duties, and (2) if the actions were taken in the complete absence of all jurisdiction, meaning the judge had no legal authority to act in the matter. These exceptions are applicable regardless of the nature of the alleged misconduct, including RICO predicate acts or document tampering.

[Halsey v. Dallas County, Texas, 68 S.W.3d 81 \(Tex. App. 2001\)](#)

## **Texas Court of Appeals**

### **Extract**

It is well established that judges are absolutely immune from liability for judicial acts that are not performed in the clear absence of all jurisdiction, no matter how erroneous the act or how evil the motive. ... Officers of the court who are integral parts of the judicial process, such as court clerks, law clerks, bailiffs, constables issuing writs, and court-appointed receivers and trustees, are entitled to judicial immunity if they actually function as an arm of the court.

### **Summary**

Judges and court staff are generally protected by judicial immunity for acts performed within their jurisdiction and as part of their official duties. This immunity applies even if the acts are erroneous or motivated by malice, as long as they are not performed in the clear absence of all jurisdiction. The passage also explains that this immunity extends to court staff who function as an arm of the court, under the concept of "derived judicial immunity." However, the passage does not specifically address exceptions related to RICO predicate acts or document tampering.

[Jones v. Sherry, NO. 03-18-00279-CV \(Tex. App. Jun 28, 2019\)](#)

## **Texas Court of Appeals**

## **Extract**

In Texas, courts apply a 'functional approach' to determine whether a person is entitled to derived judicial immunity. Halsey, 87 S.W.3d at 554 (discussing Delcourt, 919 S.W.2d at 782-83). This approach focuses on the nature of the function performed, not the identity of the actor, and considers whether the court officer's conduct is like that of the delegating or appointing judge. Id. at 555. Under this functional approach, courts must assess 'whether the person seeking immunity is intimately associated with the judicial process' and whether 'that person exercises discretionary judgment comparable to that of the judge.' Id. at 554. When an individual acquires derived judicial immunity from a particular function, absolute immunity extends to 'every action taken with regard to that function—whether good or bad, honest or dishonest, well-intentioned or not.'

## **Summary**

Derived judicial immunity can extend to actions taken in the performance of judicial functions, regardless of the nature of those actions (good, bad, honest, dishonest, etc.). This suggests that even in cases of alleged RICO predicate acts or document tampering, if the actions are within the scope of judicial functions, immunity may still apply.

### [Guerrero v. Refugio County, 946 S.W.2d 558 \(Tex. App. 1997\)](#)

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

## **Extract**

Judges enjoy absolute immunity from damage claims arising out of acts performed in the exercise of their judicial functions even if acting in bad faith or with malice... However, the U.S. Supreme Court has held that in civil rights cases, absolute judicial immunity applies only when a judge acts in a judicial capacity. Forrester v. White, 484 U.S. 219, 228-30, 108 S.Ct. 538, 544-46, 98 L.Ed.2d 555 (1988). In Forrester, the Court held that the termination of a probation officer by a judge was an administrative act, and not a judicial act. Id. Because Judges Lewis, Kilgore, and Kelly were not acting in a judicial capacity, we conclude that they cannot assert the affirmative defense of absolute judicial immunity against Guerrero's § 1983 claim for political discrimination.

## **Summary**

Judicial immunity in Texas does not apply when judges are not acting in a judicial capacity. The U.S. Supreme Court's decision in Forrester v. White is cited, which distinguishes between judicial acts and administrative acts, with immunity applying only to the former. This is relevant to understanding when judicial immunity might not protect judges, especially in civil rights cases. The passage does not specifically address RICO predicate acts or

document tampering, but it provides a framework for understanding when judicial immunity might not apply.

[Feist v. Gist, NO. 09-18-00255-CV \(Tex. App. Oct 24, 2019\)](#)

**Texas Court of Appeals**

**Extract**

A judge has immunity when acting in the course of a judicial proceeding over which he has jurisdiction. ... 'A judge will not be deprived of immunity because he was in error, took action maliciously[,] or was in excess of his authority; rather he will be subject to liability only when he has acted in the clear absence of all jurisdiction.'

**Summary**

The passage from "Feist v. Gist" provides insight into the circumstances under which judicial immunity does not apply. It states that judges have immunity when acting within their jurisdiction, even if they make errors or act maliciously. However, they can be subject to liability if they act in the clear absence of all jurisdiction. This implies that judicial immunity does not protect judges if they perform acts that are completely outside their jurisdictional authority.

[Walker v. Hartman, NO. 09-19-00061-CV \(Tex. App. Mar 26, 2020\)](#)

**Texas Court of Appeals**

**Extract**

An individual employee may be entitled to governmental immunity if he is sued in his official capacity. *Nueces Cty. v. Ferguson*, 97 S.W.3d 205, 214 (Tex. App.—Corpus Christi 2002, no pet.). 'Persons sued in their official capacity may raise any defense available to the governmental unit, including sovereign immunity' although this immunity does not apply to a person sued in their individual capacity and '[p]ersons sued in their individual capacities,... may not rely on sovereign immunity protections for claims against them in that capacity, although they may assert the defense of official immunity.' Id. at 215 (citations omitted). '[P]ersons sued in both official and individual capacities may assert both official and sovereign immunity, although they enjoy sovereign immunity protection only to the extent that they were acting in their official capacity.' Id.

**Summary**

Governmental immunity can protect individuals sued in their official capacity, but not in their individual capacity. In individual capacity suits,

they may assert official immunity, which is an affirmative defense. This distinction is crucial in understanding when judicial or quasi-judicial immunity might not apply, particularly if the actions in question fall outside the scope of their official duties or involve personal liability.

[Hartman v. Estate of Alford, NO. 09-19-00051-CV \(Tex. App. Sep 19, 2019\)](#)

**Texas Court of Appeals**

**Extract**

Hartman argues in his brief that because this Court held before that Walker was not acting within the course and scope of his employment as a district judge when he ordered Hartman arrested, 'it necessarily follows all other participants in this conspiracy who were government employees, could not have been acting within the normal course and scope of their employment, within the meaning of TTCA §§ 101.001(5)... and 101.106(f).' We disagree. In Walker v. Hartman, this Court explained that '[a] judge has immunity when acting in the course of a judicial proceeding over which he has jurisdiction.' 516 S.W.3d at 82 (citation omitted). We determined that when Walker arrested Hartman for disrupting his courtroom, his actions were covered by judicial immunity. See id. The actions he took after arresting Hartman, however, were not covered. See id.

**Summary**

Judicial immunity applies to actions taken by judges within the course of a judicial proceeding over which they have jurisdiction. However, actions taken outside of this scope, such as those not related to the judicial proceeding or beyond the judge's jurisdiction, may not be covered by judicial immunity. This suggests that if a judge or court staff engages in actions that are not part of their judicial duties or outside their jurisdiction, such as document tampering or participating in a conspiracy, they may not be protected by judicial immunity.

[Hartman v. Barker, NO. 09-19-00052-CV \(Tex. App. Feb 20, 2020\)](#)

**Texas Court of Appeals**

**Extract**

Prosecutors enjoy absolute immunity under common law. *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976). 'Texas courts have followed federal courts and consistently held as a matter of law that absolute immunity extends to quasi-judicial officers, including prosecutors performing such typical prosecutorial functions as initiating criminal prosecution and presenting the State's case.' *Brown v. Lubbock Cty. Comm. Ct.*, 185 S.W.3d 499, 505 (Tex. App.—Amarillo 2005, no pet.) (citing *Oden v. Reader*, 935 S.W.

2d 470, 474-75 (Tex. App.—Tyler 1996, no pet.)). 'Activities intimately associated with the judicial phase of the criminal process, such as initiating a prosecution and presenting the State's case, are functions to which absolute immunity applies with full force.'

## **Summary**

In Texas, absolute immunity is extended to quasi-judicial officers, including prosecutors, for actions intimately associated with the judicial phase of the criminal process. This immunity is absolute and applies even in cases of alleged malicious or dishonest actions. The passage does not specifically address exceptions to this immunity in the context of RICO predicate acts or document tampering, suggesting that such exceptions are not recognized under the current legal framework.

[Twilligear v. Carrell, 148 S.W.3d 502 \(Tex. App. 2004\)](#)

### **Texas Court of Appeals**

#### **Extract**

Judges acting in their official judicial capacity have immunity from liability and suit for judicial acts performed within the scope of their jurisdiction. ... It is overcome only for actions that are: (1) nonjudicial, i.e., not taken in the judge's official capacity; or (2) taken in the complete absence of all jurisdiction. ... However, judicial immunity is not a bar to prospective injunctive relief against a judicial officer acting in a judicial capacity or to attorney's fees for obtaining such relief.

## **Summary**

The passage from Twilligear v. Carrell outlines the circumstances under which judicial immunity does not apply. Specifically, it states that judicial immunity is overcome for actions that are nonjudicial or taken in the complete absence of all jurisdiction. Additionally, it clarifies that judicial immunity does not prevent prospective injunctive relief against a judicial officer. This information is generally applicable to cases involving judicial immunity in Texas, providing a clear framework for when such immunity might not apply.

[Delcourt v. Silverman, 919 S.W.2d 777 \(Tex. App. 1996\)](#)

### **Texas Court of Appeals**

#### **Extract**

It is well-established that judges are absolutely immune from liability for judicial acts that are not performed in the clear absence of all jurisdiction,

no matter how erroneous the act or how evil the motive. ... When judges delegate their authority or appoint others to perform services for the court, the judicial immunity that attaches to the judge may follow the delegation or appointment. ... Officers of the court who are integral parts of the judicial process, such as court clerks, law clerks, bailiffs, constables issuing writs, and court-appointed receivers and trustees are entitled to judicial immunity if they actually function as an arm of the court.

## **Summary**

The passage from *Delcourt v. Silverman* establishes that judges in Texas are granted absolute immunity for judicial acts unless those acts are performed in the clear absence of all jurisdiction. This immunity extends to court staff and officers who are integral to the judicial process, provided they function as an arm of the court. The passage does not specifically address RICO predicate acts or document tampering, but it implies that immunity would not apply if the acts were outside the scope of judicial functions or jurisdiction.

### [Tex. Civ. Prac. and Rem. Code § 101.053 Tex. Civ. Prac. and Rem. Code § 101.053 Judicial](#)

## **Extract**

This chapter does not apply to a claim based on an act or omission of a court of this state or any member of a court of this state acting in his official capacity or to a judicial function of a governmental unit. 'Official capacity' means all duties of office and includes administrative decisions or actions. This chapter does not apply to a claim based on an act or omission of an employee in the execution of a lawful order of any court.

## **Summary**

The statute provides immunity to courts and court staff for acts or omissions performed in their official capacity or as part of a judicial function. This includes administrative decisions and actions, as well as the execution of lawful court orders. The statute does not specifically address exceptions to this immunity in the context of RICO predicate acts or document tampering, suggesting that such claims would not fall under the general tort claims covered by this chapter.

### [Tex. Pen. Code § 37.10 Tex. Pen. Code § 37.10 Tampering With Governmental Record](#)

## **Extract**

A person commits an offense if he: knowingly makes a false entry in, or false alteration of, a governmental record; makes, presents, or uses any record,

document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record; intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record; possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully; makes, presents, or uses a governmental record with knowledge of its falsity; or possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

## **Summary**

The Texas Penal Code § 37.10 outlines offenses related to tampering with governmental records. This statute applies to any person, including judges or court staff, who knowingly makes false entries, alters, destroys, or otherwise impairs governmental records. Judicial or quasi-judicial immunity typically protects judges and court staff from liability for actions taken in their official capacity. However, this immunity does not extend to criminal acts such as document tampering. Therefore, if a judge or court staff member engages in such conduct, they may be subject to prosecution under this statute, and immunity would not apply.

### [Tex. Gov't. Code § 33.001 Tex. Gov't. Code § 33.001 \[Effective 9/1/2025\]](#) [Definitions](#)

## **Extract**

For purposes of Section 1-a, Article V, Texas Constitution, 'wilful or persistent conduct that is clearly inconsistent with the proper performance of a judge's duties' includes: wilful violation of a provision of the Texas penal statutes or the Code of Judicial Conduct; persistent or wilful violation of the rules promulgated by the supreme court; incompetence in the performance of the duties of the office; failure to cooperate with the commission; violation of any provision of a voluntary agreement to resign from judicial office in lieu of disciplinary action by the commission; persistent or wilful violation of Article Code of Criminal Procedure 17.15, Code of Criminal Procedure; or persistent or wilful violation of Section 22.302(a).

## **Summary**

Judicial or quasi-judicial immunity may not apply in cases where a judge engages in willful or persistent conduct that is inconsistent with their duties. This includes violations of penal statutes, the Code of Judicial Conduct, or rules set by the supreme court. Such conduct could potentially include actions that might be considered RICO predicate acts or document tampering if they violate these provisions.

[Tex. Hum. Res. Code § 152.2264 Tex. Hum. Res. Code § 152.2264 Tarrant County Criminal Court Administrator](#)

## **Extract**

A judge may not be subjected to a suit for, and is immune from liability for damages arising from, an act or omission committed while performing a duty under this section unless the act or omission is: committed intentionally, wilfully, or wantonly; or committed with: (A) gross negligence; (B) conscious indifference for the safety of others; or (C) reckless disregard for the safety of others.

## **Summary**

Judicial immunity in this context does not apply if the judge's act or omission was committed intentionally, willfully, wantonly, or with gross negligence, conscious indifference, or reckless disregard for the safety of others. This indicates that in Tarrant County, Texas, judges may lose their immunity under these specific circumstances.

[Tex. Const. art. 5 § 1-a Tex. Const. art. 5 § 1-a Retirement, Censure, Removal, and Compensation of Justices and Judges; State Commission On Judicial Conduct; Procedure](#)

## **Extract**

Any Justice or Judge of the courts established by this Constitution or created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice. Any person holding such office may be disciplined or censured, in lieu of removal from office, as provided by this section. Any person holding an office specified in this subsection may be suspended from office with or without pay by the Commission immediately on being indicted by a State or Federal grand jury for a felony offense or charged with a misdemeanor involving official misconduct.

## **Summary**

The passage outlines circumstances under which judges in Texas may be removed, disciplined, or suspended, which includes willful violations of rules, incompetence, or conduct that discredits the judiciary. It also mentions suspension upon indictment for a felony or misdemeanor involving official misconduct. This suggests that judicial immunity may not protect judges in cases of serious misconduct or criminal charges.

[962 S.W.2d 237 Attaya v. Shoukfeh](#)

## **Extract**

The absolute privilege (i.e., immunity) doctrine has been firmly established in the Texas legal system for over one hundred years... This absolute immunity doctrine (which has been routinely extended to judicial proceedings) means that any statement made in the trial of any case by anyone cannot constitute the basis for a defamation or any other civil action... The absolute privilege (i.e., immunity) has been extended to statements made in quasi-judicial proceedings before governmental executive officers, boards and commissions which exercise quasi-judicial powers... The absolute privilege is intended to protect the integrity of the process itself and to insure that the decision-making body gets the information it needs. Even though the speaker may not deserve the privilege, nevertheless, the law grants the privilege to protect the integrity of the process.

## **Summary**

The absolute immunity doctrine in Texas is well-established and applies broadly to statements made in judicial and quasi-judicial proceedings. This immunity is designed to protect the integrity of the judicial process and ensure that decision-making bodies receive the necessary information without the fear of civil liability. The passage does not specifically address exceptions to this immunity in the context of RICO predicate acts or document tampering, indicating that the doctrine is quite robust and not easily circumvented.

[829 S.W.2d 345 GAB Business Services, Inc. v. Moore](#)

## **Extract**

Second, GAB does not come within the protective ambit of the official immunity doctrine. Under that doctrine, a state employee who gathers facts and acts on them is clothed with quasi-judicial status and enjoys immunity from personal liability as long as he or she acts in good faith within the scope of his or her authority. *Austin v. Hale*, 711 S.W.2d 64, 66 (Tex.App.--Waco 1986, no writ); *Augustine By Augustine v. Nusom*, 671 S.W.2d 112, 115 (Tex.App.--Houston [14th Dist.] 1984, writ ref'd n.r.e.). GAB was not a state employee but a private company that contracted to provide specific services to the Risk Pool. More importantly, the jury found that GAB did not act in good faith.

## **Summary**

Quasi-judicial immunity does not apply if the entity in question is not a state employee and does not act in good faith. The passage specifically mentions that GAB, a private company, was not entitled to official immunity because it was not a state employee and did not act in good faith. This suggests that for quasi-judicial immunity to apply, the individual or entity must be a state employee and must act in good faith within the scope of their authority.

### [Tex. Pen. Code § 37.13 Tex. Pen. Code § 37.13 Record of a Fraudulent Court Extract](#)

#### **Extract**

A person commits an offense if the person makes, presents, or uses any document or other record with: knowledge that the document or other record is not a record of a court created under or established by the constitution or laws of this state or of the United States; and the intent that the document or other record be given the same legal effect as a record of a court created under or established by the constitution or laws of this state or of the United States.

## **Summary**

This statute criminalizes the act of making, presenting, or using fraudulent court records with the intent to give them legal effect. This could potentially apply to judges or court staff if they were involved in such conduct, thereby negating their judicial or quasi-judicial immunity in these specific circumstances.

### [Judicial Immunity](#)

#### **West's Encyclopedia of American Law - GALE - Jeffrey Lehman, Shirelle Phelps - 2005-01-01**

#### **Extract**

A judge generally has IMMUNITY from civil damages if he or she had jurisdiction over the subject matter in issue. This means that a judge has immunity for acts relating to cases before the court, but not for acts relating to cases beyond the court's reach. For example, a criminal court judge would not have immunity if he or she tried to influence proceedings in a juvenile court.

## **Summary**

N example where a judge would not have immunity if they attempted to influence proceedings in a court where they do not have jurisdiction. This

implies that if a judge or court staff were involved in actions such as RICO predicate acts or document tampering outside their jurisdiction or unrelated to their judicial duties, immunity might not apply.

This memo was compiled by Vincent AI based on vLex materials available as of September 14, 2025. [View full answer on vLex](#)