

## Question

The court ordered the user to vacate their family home and divested their custodial rights before a hearing. The court made these orders without evidence being presented. Under the Fourteenth Amendment to the United States Constitution, no state shall deprive any person of life, liberty, or property, without due process of law. Due process requires that individuals are given notice and an opportunity to be heard before being deprived of significant rights. Since the orders were made without a hearing or evidence, this constitutes a violation of due process rights. As a result, the orders should be considered void due to the lack of due process.

## Answer (Texas)

### Legal Authorities

[In re Marriage of Runberg, 159 S.W.3d 194 \(Tex. App. 2005\)](#)

#### Texas Court of Appeals

##### Extract

*In reversing the default judgment, the Texas Supreme Court said simply that once a defendant has made an appearance in a cause, the defendant is entitled to notice of a trial setting as a matter of due process under the Fourteenth Amendment. Id. at 390-91. ... That is, the violation of Doak's due process right to actual or constructive notice of the final hearing means that Doak's motion for new trial and attached affidavits need not have either set up a meritorious defense or addressed the avoidance of injury or delay to Lisa by the granting of a new trial.*

##### Summary

Requirement for due process under the Fourteenth Amendment, emphasizing that a party who has made an appearance in a case is entitled to notice of a trial setting. The lack of such notice constitutes a violation of due process rights. This is relevant to the proposition because it supports the argument that orders made without a hearing or evidence, and without notice, violate due process rights.

[Dispensa v. University State Bank, 987 S.W.2d 923 \(Tex. App. 1999\)](#)

#### Texas Court of Appeals

##### Extract

*A fundamental requirement of due process is the 'opportunity to be heard.' It is an opportunity which must be granted at a meaningful time and in a meaningful manner." See Armstrong v. Manzo, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191, 14 L.Ed.2d 62 (1965). More recently, in Peralta, the Supreme Court again had an opportunity to address the due process rights of a litigant. See Peralta, 485 U.S. at 80, 108 S.Ct. at 896. Peralta is important to this case for one main reason. Peralta clarified when Texas's procedural requirements for setting aside a default judgment violate the due process clause of the Fourteenth Amendment and thereby make a judgment void. This happens when a party has not received notice of the suit and the judgment.*

##### Summary

The passage emphasizes the fundamental requirement of due process, which is the opportunity to be heard at a meaningful time and in a meaningful manner. The case of Peralta is highlighted as it clarifies that a judgment is void if a party has not received notice of the suit and the judgment, which is a violation of the due process clause of the Fourteenth Amendment. This directly supports the proposition that orders made without a hearing or evidence, and without notice, constitute a violation of due process rights.

[University of Texas Medical School at Houston v. Than, 874 S.W.2d 839 \(Tex. App. 1994\)](#)

#### Texas Court of Appeals

##### Extract

*The trial court was correct in finding that Than was denied due process; this conclusion is supported by ample evidence. The cumulative effect of all of the infirmities in the School's pursuit of Than's dismissal denied him due process. Therefore, the trial court did not abuse its discretion in granting the permanent injunction. We overrule point of error one. ... We have decided that, before permanently depriving someone of an interest protected by the due process clause of the Fourteenth Amendment, as was Than's attendance at the School once he was admitted, the proceedings must be of higher due process quality than those that took place here.*

##### Summary

The court found a violation of due process rights when an individual was deprived of a significant interest (attendance at a school) without proper procedural safeguards, such as timely notice and an opportunity to be heard. This supports the proposition that similar procedural deficiencies in the deprivation of significant rights, such as custodial rights and property interests, would also constitute a due process violation.

[Texas Integrated Conveyor Systems, Inc. v. Innovative Conveyor, 300 S.W.3d 348 \(Tex. App. 2009\)](#)

## **Texas Court of Appeals**

### **Extract**

*The Fourteenth Amendment of the United States Constitution protects against deprivation of life, liberty, or property by the State 'without due process of law.' U.S. CONST. amend. XIV, § 1. The Texas Constitution states that no citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the 'due course of law of the land.' TEX. CONST. art. I, § 9. At a minimum, due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. ... When a hearing has been scheduled on a motion and the trial court grants that motion before the scheduled hearing date, the trial court violates the non-moving party's procedural due process right to be heard.*

### **Summary**

Due process under both the U.S. and Texas Constitutions requires notice and an opportunity to be heard before depriving someone of significant rights. The passage specifically addresses the violation of due process when a court grants a motion before a scheduled hearing, which directly parallels the proposition's scenario where orders were made without a hearing or evidence.

[In re S.C., 09-21-00325-CV \(Tex. App. Apr 07, 2022\)](#)

## **Texas Court of Appeals**

### **Extract**

*In issues three through six, Father contends his due process rights were violated, because he was not allowed to meaningfully participate in multiple hearings, was not timely admonished about his right to counsel, and was not appointed counsel until September 2, 2021, the first day of trial. We agree... 'At a minimum, due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner.'... Balancing the Eldridge factors, we conclude Father was denied procedural due process, as he was denied a meaningful opportunity to participate in the proceedings until the time of trial.*

### **Summary**

The passage discusses a case where the father's due process rights were violated because he was not given a meaningful opportunity to participate in hearings and was not informed of his right to counsel in a timely manner. The court emphasized that due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. This aligns with the proposition that orders made without a hearing or evidence violate due process rights.

[In re E.R., 385 S.W.3d 552, 55 Tex. Sup. Ct. J. 1130 \(Tex. 2012\)](#)

## **Texas Supreme Court**

### **Extract**

*Accordingly, the statute cannot place a temporal limit on a challenge to a void judgment filed by a defendant who did not receive the type of notice to which she was constitutionally entitled. Despite the Legislature's intent to expedite termination proceedings, it cannot do so at the expense of a parent's constitutional right to notice.*

### **Summary**

The passage emphasizes the importance of constitutional notice requirements in termination proceedings. It highlights that even legislative intent to expedite such proceedings cannot override a parent's constitutional right to notice. This supports the proposition that orders made without proper notice and opportunity to be heard violate due process rights and can be considered void.

[In re L.M.I., 119 S.W.3d 707 \(Tex. 2003\)](#)

## **Texas Supreme Court**

### **Extract**

*The clear and convincing evidence requirement necessarily means that the burden of proof that an affidavit of relinquishment was voluntarily executed cannot be shifted to a parent. There must be clear and convincing evidence, from the record as a whole, that the affidavit was knowingly and voluntarily executed. Shifting the burden of proof to a parent is in irreconcilable conflict with the clear and convincing standard of proof that the United States Supreme Court has said the federal Constitution requires before parental rights can be terminated and that the Texas Legislature has required in parental termination cases.*

### **Summary**

The Texas Supreme Court emphasizes the necessity of clear and convincing evidence before parental rights can be terminated. The passage highlights that shifting the burden of proof to the parent, without clear and convincing evidence, conflicts with constitutional due process requirements. This supports the proposition that orders made without a hearing or evidence violate due process rights, as due process requires notice and an opportunity to be heard.

[Martinez v. Texas Department of Protective & Regulatory Services, 116 S.W.3d 266 \(Tex. 2003\)](#)

#### **Texas Supreme Court**

##### **Extract**

*The Due Process Clause of the Fourteenth Amendment encompasses three types of protection: ... The procedural component guarantees fair procedure. ... Because Martinez's complaint focuses on the fairness of the process used to terminate her parental rights, it must be analyzed as a matter of procedural due process.*

##### **Summary**

The procedural component of the Due Process Clause guarantees fair procedure. The case of Martinez highlights the importance of analyzing the fairness of the process used to terminate parental rights as a matter of procedural due process. This directly relates to the proposition, as it underscores the necessity of providing notice and an opportunity to be heard before significant rights, such as custodial rights, are deprived.

[In re Crystal Aubin, 29 S.W.3d 199 \(Tex. App. 2000\)](#)

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

##### **Extract**

*The Texas Supreme Court has acknowledged that mandamus may issue where the legal process itself would violate the relator's constitutional rights. Tilton v. Marshall, 925 S.W.2d 672, 682 (Tex. 1996). Absent a finding, supported by evidence, that the safety and welfare of the children is significantly impaired by the denial of the Burks' visitation, Aubin's decision regarding whether the children will have any contact with the Burks is an exercise of her fundamental right as a parent. That right is shielded from judicial interference by the Due Process clause of the United States Constitution.*

##### **Summary**

The passage highlights that the Texas Supreme Court recognizes that legal processes that violate constitutional rights, such as due process, can be challenged. It emphasizes that a parent's fundamental rights, including decisions about their children's contact with others, are protected by the Due Process clause. This protection requires evidence to support any judicial interference with those rights, aligning with the proposition that orders made without evidence or a hearing violate due process.

[In re J.H., 13-21-00175-CV \(Tex. App. Nov 04, 2021\)](#)

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

##### **Extract**

*By her second issue, [] Mother argues her due process rights were violated when the trial court failed to inform her of her right to counsel before commencement of the adversary hearing as required by Texas Family Code § 262.201(c)(1), (2).[] Specifically, Mother argues that the trial court's failure resulted in the denial of her fundamental due process right to defend herself in a meaningful way in an action brought by the Department. Mother further explains that she was prevented from cross examining a witness at the adversary hearing which she asserts indicates her inability to meaningfully represent herself. Additionally, Mother asserts without legal counsel she was denied the opportunity to object to leading questions and to exclude alleged inadmissible evidence.*

##### **Summary**

The passage discusses a due process violation where a mother was not informed of her right to counsel before an adversary hearing, which is a requirement under Texas Family Code § 262.201(c)(1), (2). This failure resulted in the denial of her fundamental due process rights, as she could not defend herself meaningfully. The passage highlights the importance of due process, including the right to counsel and the opportunity to be heard, which aligns with the proposition that orders made without a hearing or evidence violate due process rights.

[In re L.D.C., NUMBER 13-17-00053-CV \(Tex. App. Dec 13, 2018\)](#)

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

##### **Extract**

*The Fourteenth Amendment of the United States Constitution protects against deprivation of life, liberty, or property by the state 'without due process of law.' U.S. CONST. amend XIV; Parratt v. Taylor, 451 U.S. 527, 537 (1981). 'The opportunity to be heard is the fundamental requirement of due process; it is an opportunity which must be granted at a meaningful time and in a meaningful manner.' Covarrubias v. Tex. Dep't. of Crim. Justice-Inst. Div., 52 S.W.3d 318, 324 (Tex. App.—Corpus Christi 2001, no pet.) (citing Parratt, 451 U.S. at 540). Evaluating procedural due process is a two-step process. Id. First, we must determine whether an existing liberty or property interest was interfered with, and secondly, we determine whether the procedures were constitutionally sufficient. Id.*

## Summary

The passage emphasizes the fundamental requirement of due process under the Fourteenth Amendment, which is the opportunity to be heard at a meaningful time and in a meaningful manner. It outlines a two-step process for evaluating procedural due process: determining whether a liberty or property interest was interfered with and assessing whether the procedures were constitutionally sufficient. This directly supports the proposition that the court's actions, made without a hearing or evidence, violated due process rights.

[In re E.L.T., 93 S.W.3d 372 \(Tex. App. 2002\)](#)

## Texas Court of Appeals

### Extract

*Under the first prong of the balancing test, a court is to consider the nature of the private interest affected by the official action. Mathews, 424 U.S. at 335, 96 S.Ct. 893. Parents hold a 'fundamental liberty interest' in the care as well as the custody and management of their children. Troxel, 530 U.S. at 65, 120 S.Ct. 2054; Santosky, 455 U.S. at 753, 102 S.Ct. 1388; Quilloin v. Walcott, 434 U.S. 246, 255, 98 S.Ct. 549, 54 L.Ed.2d 511 (1978). The Texas Supreme Court has recognized the natural parental right as 'essential,' 'a basic civil right of man,' and 'far more precious than property rights.'*

## Summary

The passage highlights the fundamental liberty interest parents have in the care, custody, and management of their children, which is recognized as a basic civil right. This aligns with the proposition that due process requires notice and an opportunity to be heard before depriving individuals of significant rights, such as custodial rights. The passage supports the argument that any deprivation of these rights without due process, such as a hearing or evidence, would be a violation of due process rights.

[In re Interest of G.X.H., 584 S.W.3d 543 \(Tex. App. 2019\)](#)

## Texas Court of Appeals

### Extract

*The U.S. Constitution prohibits a state from 'depriv[ing] any person of life, liberty, or property, without due process of law....' U.S. Const. amend. XIV, § 1. The Texas Constitution states, 'No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.' Tex. Const. art. I, § 19. Because the Department has not suggested otherwise, we presume the due course of law analysis under the Texas Constitution mirrors the due process analysis under the U.S. Constitution. Reynoso v. Dibs US, Inc., 541 S.W.3d 331, 338 (Tex. App.—Houston [14th Dist.] 2017, no pet.). A violation of substantive due process occurs when the government deprives individuals of constitutionally protected rights by an arbitrary use of power. Id. Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property. Id. at 339 (citing Carey v. Piphus, 435 U.S. 247, 260, 98 S.Ct. 1042, 55 L.Ed.2d 252 (1978) ). Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. Univ. of Tex. Med. Sch. at Houston v. Than, 901 S.W.2d 926, 930 (Tex. 1995).*

## Summary

The passage highlights the constitutional requirement that no person shall be deprived of life, liberty, or property without due process of law, as stated in both the U.S. and Texas Constitutions. It emphasizes that due process requires notice and an opportunity to be heard, which are fundamental protections against arbitrary government actions. The passage also notes that procedural due process is designed to prevent mistaken or unjustified deprivations of rights. This directly supports the proposition that the court's actions, in this case, violated due process by making orders without a hearing or evidence.

[S.C. v. Tex. Dep't of Family & Protective Servs., NO. 03-19-00965-CV \(Tex. App. Nov 18, 2020\)](#)

## Texas Court of Appeals

### Extract

*The Fourteenth Amendment guards against State deprivation of life, liberty, or property rights without due process of law, U.S. Const. amend. XIV, and the Texas Constitution requires due course of law, Tex. Const. art. I, § 19. Due process, 'although incapable of precise definition, expresses the requirement of fundamental fairness,' 'determined by 'considering any relevant precedents and then... assessing the several interests that are at stake.' In re B.L.D., 113 S.W.3d 340, 352 (Tex. 2003) (quoting Lassiter v. Department of Social Servs., 452 U.S. 18, 24-25 (1981)). We consider the private interest affected by the governmental action, the governmental interest promoted by the statute and the challenged proceeding, and the risk of erroneous deprivation of the private interest due to the procedures used.*

## Summary

The passage highlights the protection against deprivation of life, liberty, or property without due process as guaranteed by the Fourteenth Amendment and the Texas Constitution. It emphasizes the requirement of fundamental fairness and the need to assess the interests at stake, which includes considering the risk of erroneous deprivation due to the procedures used. This directly supports the proposition that orders made without a hearing or evidence violate due process rights.

[In re K.B., 683 S.W.3d 850 \(Tex. App. 2024\)](#)

## Texas Court of Appeals

### Extract

*Observing that termination cases implicate fundamental liberties," Texas courts "begin with the premise that our proceedings to terminate parental rights must comply with the requirements of procedural due process." In re B.L.D., 113 S.W.3d 340, 351-52 (Tex. 2003). "The phrase 'due process,' although incapable of precise definition, expresses the requirement of fundamental fairness.*

### Summary

The passage highlights the fundamental importance of due process in cases involving the termination of parental rights, which are considered fundamental liberties. The requirement of procedural due process is emphasized as a necessity for fairness in such proceedings. This aligns with the proposition that orders made without a hearing or evidence violate due process rights, as due process requires notice and an opportunity to be heard before significant rights are deprived.

[In re Interest of L.N.C., 573 S.W.3d 309 \(Tex. App. 2019\)](#)

## Texas Court of Appeals

### Extract

*For reasons stated below, we conclude Father's due process rights were violated, reverse the trial court's judgment, and remand for a new trial. ... In analyzing a claim of deprivation of procedural due process, we determine: (1) whether the complaining party has a liberty or property interest entitled to protection; and (2) if so, what process is due. In re D.W., 498 S.W.3d 100, 112 (Tex. App.—Houston [1st Dist.] 2016, no pet.). (citing Logan v. Zimmerman Brush Co., 455 U.S. 422, 428, 102 S.Ct. 1148, 1153–54, 71 L.Ed.2d 265 (1982) ; Univ. of Tex. Med. Sch. v. Than, 901 S.W.2d 926, 929 (Tex. 1995) ).*

### Summary

Violation of due process rights when a court makes decisions affecting significant rights, such as parental rights, without proper procedure. It emphasizes the need for a liberty or property interest to be protected and the requirement of due process, which includes notice and an opportunity to be heard. This aligns with the proposition that orders made without a hearing or evidence violate due process rights.

[University of Texas Medical School at Houston v. Than, 901 S.W.2d 926 \(Tex. 1995\)](#)

## Texas Supreme Court

### Extract

*TEX. CONST. art. I, § 19. The Texas due course clause is nearly identical to the federal due process clause, which provides: 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; ...*

### Summary

The passage highlights the similarity between the Texas due course clause and the federal due process clause, both of which protect individuals from being deprived of life, liberty, or property without due process of law. This supports the proposition that the court's actions, in this case, violated due process rights by making orders without a hearing or evidence. The Texas Supreme Court's acknowledgment of this similarity reinforces the applicability of due process protections in Texas.

[40 Tex. Admin. Code § 700.1102 40 Tex. Admin. Code § 700.1102 Informing and Notifying Parents and Children](#)

### Extract

*To protect the legal rights of parents and children, the Texas Department of Protective and Regulatory Services (PRS) must take the following actions when providing court-related services. PRS must inform the parents and children of every planned court action. Whenever possible, PRS must notify the parents and*

children of a planned court action before the action takes place, unless PRS suspects that the parents may try to move to avoid the court action. ... PRS must inform the parents of their right to be represented by an attorney at every court hearing. PRS must inform the parents of their right to attend every court hearing.

## Summary

Obligations of the Texas Department of Protective and Regulatory Services to inform parents and children of planned court actions and their rights to representation and attendance at court hearings. This aligns with the due process requirement of providing notice and an opportunity to be heard before significant rights are deprived. The passage supports the proposition by emphasizing the necessity of informing parents of court actions and their rights, which is a fundamental aspect of due process.

## [Schoolhouse Property.](#)

Yale Law Journal - Yale University, School of Law - Tanious, Sherry Maria - 2022-03-01

## Extract

*The Due Process Clause forbids government actors, including public-school officials, from interfering with an individual's 'life, liberty, or property, without due process of law.' The Clause protects some of the interests most vital to American democracy. The Supreme Court has understood the principal value of the Clause as promoting accurate decision making, thus restraining arbitrary government action. Procedural protections - often in the form of notice and opportunity to be heard before a government decision maker--function, in addition to facilitating accuracy of the substantive decision, to promote participatory and dignitary values and advance fundamental fairness.*

## Summary

The Due Process Clause of the Fourteenth Amendment requires that individuals be given notice and an opportunity to be heard before being deprived of significant rights. This principle is fundamental to preventing arbitrary government action and ensuring fairness. The passage emphasizes the importance of procedural protections in promoting accurate decision-making and protecting individual rights.

## [Due Process—United States \(as Creditor\)—Withholding Wages of Federal Employee \(as Debtor\) in Satisfaction of Debt Allegedly Owed the Government, 062879 DOJ, 79-46](#)

## Opinions of the Office of Legal Counsel of the Department of Justice

## Extract

*The Supreme Court in recent years has considered in a variety of circumstances what due process requirements apply where deprivation of property interests are involved. The case that is most relevant here is Sniadach v. Family Finance Corp., 395 U.S. 337 . ... The Court stated: [A] prejudgment garnishment of the Wisconsin type may as a practical matter drive a wage-earning family to the wall. Where the taking of one's property is so obvious, it needs no extended argument to conclude that absent notice and a prior hearing \* \* \* this prejudgment garnishment procedure violates the fundamental principles of due process.*

## Summary

Constitutional requirement of due process when property interests are at stake, as established in the Supreme Court case Sniadach v. Family Finance Corp. The Court emphasized that depriving individuals of property without notice and a hearing violates due process. This principle is applicable to the proposition, as the court's orders to vacate a home and divest custodial rights without a hearing or evidence similarly constitute a deprivation of property and liberty interests without due process.

## [The Unconstitutionality of Protective Orders Under the Texas Family Code – Part I](#)

## Extract

*The United States Constitution requires that every defendant receive a meaningful trial. The 14th Amendment states that 'no state... shall deprive any person of life, liberty or property without due process of law.' This ideal is at the very foundation of our nation. The Texas Constitution goes beyond the United States Constitution in its requirements for a meaningful trial: 'No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.' Tex. Const. Art. 1, Sec. 19. This ideal is at the very foundation of our state.*

## Summary

The passage highlights the constitutional requirement for due process under both the United States and Texas Constitutions. It emphasizes that individuals cannot be deprived of life, liberty, or property without due process, which includes a meaningful opportunity to be heard. This directly supports the proposition that the court's actions, in this case, violated due process rights by making orders without a hearing or evidence.