

Question

If a district judge takes up a case, makes an order (without a hearing or hearing evidence) and deprives one party of his fundamental rights to property and liberty interest in his children, and then resets the case to be heard by the associate judge a week later, if he doesn't file an order of referral, can this error be waived, and if the associate judge takes action in the absence of an order of referral, is the actions void? Explain why the actions are void and it's not waivable since it's jurisdictional supported by caselaw. The associate judge issued orders affecting fundamental rights (property and liberty interests in children) without jurisdiction. Orders issued without jurisdiction are void ab initio and have no legal effect. See *In re Guardianship of V.A.*, 390 S.W.3d 414, 418 (Tex. App.—San Antonio 2012, pet. denied) (“A judgment rendered without jurisdiction is void and subject to collateral attack.”). The orders issued by the associate judge in the absence of a written order of referral are void and must be set aside, regardless of whether any party objected at the time.

Answer (Texas)

Short response

If an associate judge acts without a written order of referral from the district judge, any orders issued—including those affecting fundamental rights—are void for lack of jurisdiction and cannot be rendered valid by waiver or failure to object. This jurisdictional defect is not waivable and renders the associate judge’s actions null from the outset.

Summary

Under Texas law, an associate judge may only exercise authority over a case if the referring court issues a written order of referral, either specific to the case or by general/omnibus order. If no such order is entered, the associate judge lacks jurisdiction, and any orders issued—including those affecting property or parental rights—are void ab initio and have no legal effect, regardless of whether any party objects or participates in the proceedings.

This jurisdictional requirement is fundamental and cannot be waived by the parties, as established by both statutory provisions and controlling Texas appellate decisions. Orders issued without jurisdiction are subject to collateral attack at any time, and the absence of a referral order is a defect that cannot be cured by consent, participation, or failure to object.

Background and Relevant Law

Legislative Framework

The Texas Family Code and Texas Government Code set out the requirements for referring cases to associate judges. The relevant statutes are clear and consistent:

- [Tex. Fam. Code § 201.006](#) requires that a judge referring a case to an associate judge must render either an individual order of referral or a general order specifying the class and type of cases to be heard by the associate judge. This is a mandatory procedural step that confers jurisdiction on the associate judge to act in the matter.
- [Tex. Fam. Code § 201.007](#) enumerates the powers of an associate judge, but explicitly states that these powers are limited by the order of referral. Without such an order, the associate judge has no authority to conduct hearings, issue orders, or otherwise act in the case.
- [Tex. Fam. Code § 201.307](#) and [Tex. Gov't Code §§ 54A.007, 54A.107, 54A.208, 54B.007](#) all reinforce that a case may only be referred to an associate judge by a written order of referral, which may be specific to a case or by omnibus order. The statutes emphasize that the order of referral is the jurisdictional basis for the associate judge's authority.

The legislative scheme thus makes clear that the issuance of a written order of referral is not a mere formality, but a jurisdictional prerequisite for any action by an associate judge.

Case Law

Texas appellate courts have repeatedly held that jurisdictional defects—such as the absence of a valid order of referral—render judicial actions void, not merely voidable. The following principles are established:

- **Voidness for Lack of Jurisdiction:** A judgment or order is void if the court or judge rendering it lacked jurisdiction over the parties, the subject matter, or the capacity to act. This principle is articulated in cases such as [JD Auto Corp. v. Bell](#), 2023 Tex. App. LEXIS 7890 (Tex. App. Oct. 13, 2023), [Caballero v. Vig](#), 600 S.W.3d 452 (Tex. App. 2020), and [BMW of N. Am., LLC v. Gunn, No. 05-17-00600-CV](#) (Tex. App. Jul 09, 2018).
- **Jurisdictional Defects Are Not Waivable:** Subject matter jurisdiction cannot be conferred by consent, participation, or waiver, and may be challenged at any time, even after judgment or on collateral attack. This is supported by [De Los Santos v. Vargas](#), No. 13-11-00735-CV (Tex. App. Jan 24, 2013) and the secondary material on subject matter jurisdiction.
- **Orders Without Referral Are Void:** Where an associate judge acts without a valid order of referral, any orders issued are void ab initio. This is confirmed in [In re Laurie](#), 691 S.W.3d 769 (Tex. App. 2024), which found that the absence of clear language referring a matter to an

associate judge rendered the associate judge's actions ineffective and void.

- **Fundamental Rights and Finality:** Orders affecting fundamental rights, such as property and parental rights, are particularly sensitive to jurisdictional defects. The courts have held that associate judges may only render final orders in limited circumstances expressly authorized by statute, and otherwise their orders are temporary and subject to review by the referring court ([In re R. P.](#), 2023 Tex. App. LEXIS 7890 (Tex. App. Aug. 30, 2023); [Graham v. Graham](#), 414 S.W.3d 800 (Tex. App. 2013)).

Analysis

The Requirement of a Written Order of Referral

The Texas Family Code and Government Code unambiguously require a written order of referral as a jurisdictional prerequisite for an associate judge to act. The statutes do not provide for any exceptions to this requirement, nor do they suggest that the requirement can be satisfied by implication, oral direction, or after-the-fact ratification.

- [Tex. Fam. Code § 201.006](#) and [Tex. Gov't Code § 54A.007](#) both state that a judge “shall” or “must” issue a written order of referral to assign cases to an associate judge. The use of mandatory language underscores the jurisdictional nature of the requirement.
- [Tex. Fam. Code § 201.007](#) makes clear that the associate judge's powers are “limited by an order of referral,” and without such an order, the associate judge has no authority to act.

The legislative materials are reinforced by the case law, which consistently holds that the absence of a written order of referral deprives the associate judge of jurisdiction. In [In re Laurie](#), 691 S.W.3d 769 (Tex. App. 2024), the court found that an order setting a proceeding before “this Court” was ambiguous and did not provide effective notice of referral to an associate judge, rendering any actions by the associate judge void for lack of jurisdiction.

Voidness and Non-Waivability of Jurisdictional Defects

The Texas courts have drawn a clear distinction between void and voidable orders. An order is void if the court or judge rendering it lacked jurisdiction; such orders have no legal effect and may be attacked at any time, directly or collaterally. This principle is articulated in [JD Auto Corp. v. Bell](#), 2023 Tex. App. LEXIS 7890 (Tex. App. Oct. 13, 2023), [Caballero v. Vig](#), 600 S.W.3d 452 (Tex. App. 2020), and De Los [Santos v. Vargas](#), No. 13-11-00735-CV (Tex. App. Jan 24, 2013).

The secondary material on subject matter jurisdiction further explains that a judgment rendered without subject matter jurisdiction is void ab initio and of no effect, and that such defects are not subject to waiver. The issue of

subject matter jurisdiction may be raised at any time, even after judgment or on appeal, and courts have an affirmative duty to address it sua sponte.

This principle is particularly important in cases involving fundamental rights, such as property and parental rights, where the consequences of void orders can be severe and far-reaching.

Application to the Scenario

In the scenario presented, the district judge did not issue a written order of referral before the associate judge took action. As a result, the associate judge lacked jurisdiction to act in the case, and any orders issued—including those affecting property and liberty interests in children—are void ab initio.

- The absence of a written order of referral is a jurisdictional defect that cannot be cured by consent, participation, or failure to object. The parties' actions or inactions are irrelevant to the associate judge's lack of authority.
- The orders issued by the associate judge have no legal effect and are subject to collateral attack at any time. They must be set aside, regardless of whether any party objected at the time or participated in the proceedings.

This result is compelled by both the statutory framework and the controlling case law. The courts have consistently held that jurisdictional defects are not waivable and that orders issued without jurisdiction are void.

Orders Affecting Fundamental Rights

The fact that the associate judge's orders affected fundamental rights—such as property and parental rights—does not alter the analysis. If anything, it underscores the importance of strict adherence to jurisdictional requirements. The Texas courts have emphasized that associate judges may only render final orders in limited circumstances expressly authorized by statute, and otherwise their orders are temporary and subject to review by the referring court ([In re R. P.](#), 2023 Tex. App. LEXIS 7890 (Tex. App. Aug. 30, 2023); [Graham v. Graham](#), 414 S.W.3d 800 (Tex. App. 2013)).

Where, as here, the associate judge acts without jurisdiction, the orders are void and must be set aside.

Exceptions and Caveats

There are no relevant exceptions in the statutory or case law materials provided. The requirement of a written order of referral is absolute and jurisdictional. The statutes do allow for general or omnibus orders of referral, but in the absence of any such order, the associate judge has no authority to act.

The only limited exceptions to the associate judge's lack of authority to render final orders are those expressly provided in [Tex. Fam. Code §](#)

[201.007](#), such as agreed final orders, default orders, or orders where parties have waived the right to a de novo hearing. However, even these exceptions presuppose the existence of a valid order of referral conferring jurisdiction on the associate judge. Without such an order, none of the exceptions apply.

No case in the provided materials suggests that the requirement of a written order of referral can be waived or satisfied by implication. On the contrary, the courts have consistently held that jurisdictional defects are not waivable and render judicial actions void.

Conclusion

In summary, Texas law is clear that an associate judge may only act pursuant to a written order of referral from the referring court. The absence of such an order is a jurisdictional defect that renders any orders issued by the associate judge void ab initio and of no legal effect. This defect is not waivable and may be raised at any time, directly or collaterally. The statutory framework and controlling case law leave no room for doubt: orders issued by an associate judge without jurisdiction must be set aside, regardless of the parties' actions or the nature of the rights affected.

The most crucial point is that jurisdictional requirements are fundamental to the validity of judicial actions. Where an associate judge acts without a written order of referral, the resulting orders are nullities and cannot be salvaged by waiver, consent, or participation. This ensures the integrity of the judicial process and the protection of fundamental rights.

Legal Authorities

[De Los Santos v. Vargas, NUMBER 13-11-00735-CV \(Tex. App. Jan 24, 2013\)](#)

Texas Court of Appeals

Extract

A litigant may attack a void judgment directly or collaterally, but a voidable judgment may only be attacked directly. See *Hagen v. Hagen*, 282 S.W.3d 899, 902 (Tex. 2009). Because of this distinction, when a party challenges the trial court's judgment as void, our first inquiry must be to determine whether the alleged defect renders the judgment void or merely voidable. ... A judgment is void only when it is apparent that the court rendering judgment 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.

Summary

A judgment is considered void if the court that rendered it lacked jurisdiction over the parties, the subject matter, or the capacity to act. This

aligns with the proposition that actions taken by an associate judge without a proper order of referral are void due to lack of jurisdiction. The passage supports the idea that such jurisdictional errors cannot be waived and can be attacked at any time, as they render the judgment void ab initio.

[BMW of N. Am., LLC v. Gunn, No. 05-17-00600-CV \(Tex. App. Jul 09, 2018\)](#)

Texas Court of Appeals

Extract

A judgment is void only if the court had no jurisdiction over the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the judgment, or no capacity to act as a court. Id. All other errors make the judgment merely voidable, and may only be corrected through a direct attack. Id.

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 aligns with the proposition that actions taken by an associate judge without a proper order of referral are void due to lack of jurisdiction. The passage supports the idea that such jurisdictional errors cannot be waived and result in void judgments, which are subject to collateral attack.

[JD Auto Corp. v. Bell](#)

Texas Court of Appeals

Extract

Any time after the time for filing an appeal has expired, a party to a final judgment may collaterally attack the judgment on the ground that the judgment was void. Caballero v. Vig, 600 S.W.3d 452, 458 (Tex. App.-El Paso 2020, pet. denied). A judgment is void-rather than voidable-when 'the court rendering judgment 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.' PNS Stores, Inc., 379 S.W.3d 267 at 272.

Summary

A judgment is void if the court lacks jurisdiction over the parties, subject matter, or the capacity to act. This directly supports the proposition that actions taken by an associate judge without a proper order of referral are void due to lack of jurisdiction. The passage also indicates that such jurisdictional defects render a judgment void, not voidable, meaning they cannot be waived and can be attacked collaterally at any time.

[State v. Clark, 187 S.W. 760, 79 Tex.Crim. 559 \(Tex. Crim. App. 1915\)](#)

Texas Court of Criminal Appeals

Extract

On the other hand, if the facts set out did not confer jurisdiction upon the district court to issue the writ of injunction, then its action in doing so is wholly void... when they step beyond the jurisdiction conferred on them by law, then, and in that instance only, is the court without authority to enforce its decrees... No such inferior judge is given, directly or indirectly, any such power, authority, or jurisdiction, and any assumption of the same by any such judge is an absolute usurpation, and whatever he does attempting this is a nullity and void.

Summary

Concept of jurisdiction and the consequences of actions taken without proper jurisdiction. It emphasizes that actions taken by a court or judge without jurisdiction are void and null. This directly supports the proposition that if an associate judge acts without a proper order of referral, their actions are void. The passage also highlights that jurisdictional errors are not waivable, as they go to the core authority of the court to act.

[Caballero v. Vig, 600 S.W.3d 452 \(Tex. App. 2020\)](#)

Texas Court of Appeals

Extract

A judgment is void, rather than merely voidable, when it is apparent that the court rendering judgment '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), quoting *Browning v. Placke*, 698 S.W.2d 362, 363 (Tex. 1985).

Summary

A judgment is considered void if the court lacks jurisdiction over the parties, the subject matter, or the capacity to act. This directly supports the proposition that actions taken by an associate judge without a proper order of referral are void because the associate judge would lack jurisdiction to act in the absence of such an order.

[In re R. P.](#)

Texas Court of Appeals

Extract

An associate judge does not have the power to render a final judgment outside the context of certain limited exceptions listed in section 201.007 of the Texas Family Code. ... Thus, '[u]nless authorized by section 201.007, an associate judge's proposed order or recommendation has only temporary effect, pending appeal to the referring trial court.' ... In other words, when a party timely files a request for a de novo hearing before the referring court, an associate judge's order is not a final, appealable order.

Summary

An associate judge's orders are not final and only have temporary effect unless they fall within specific exceptions outlined in section 201.007 of the Texas Family Code. This supports the proposition that without proper jurisdiction or referral, any orders made by an associate judge are not final and can be challenged. The passage also indicates that a timely request for a de novo hearing before the referring court further prevents the associate judge's order from being final or appealable, reinforcing the idea that jurisdictional errors cannot be waived and result in void actions.

[Graham v. Graham, 414 S.W.3d 800 \(Tex. App. 2013\)](#)

Texas Court of Appeals

Extract

Associate judges do not have the power to render final judgment outside the context of certain limited exceptions listed in section 201.007 of the Family Code. See Tex. Fam.Code Ann. § 201.007(a)(14) (listing orders that associate judges may render and sign); Chacon v. Chacon, 222 S.W.3d 909, 913 (Tex.App.-El Paso 2007, no pet.). ... Except when authorized by section 201.007, an associate judge's proposed orders or recommendations have only temporary effect, pending appeal to the referring trial court. See id. § 201.013.

Summary

Associate judges in Texas do not have the authority to render final judgments unless specifically authorized by section 201.007 of the Family Code. Their orders are temporary and subject to review by the referring trial court. Without a proper order of referral, any actions taken by the associate judge would lack jurisdiction and thus be void. This supports the proposition that actions taken without jurisdiction are void and not waivable, as they are fundamental jurisdictional errors.

Texas Court of Appeals

Extract

As to actual notice, the October 19, 2023 order contained at least two deficiencies that rendered it ineffective in providing Laurie with notice. The order stated, in relevant part, that 'the Court sets the above-styled and numbered cause for a court proceeding before this Court.' First, the term 'court proceeding' is insufficiently specific to apprise an ordinary reader of the nature of the proceeding for purposes of determining whether it was a trial on the merits and therefore subject to objection. Section 201.005 of the Texas Family Code explicitly governs the time frame for objecting to 'an associate judge hearing a trial on the merits,' where 'trial on the merits' is defined as 'any final adjudication from which an appeal may be taken to a court of appeals.' ... Second, the order states that the proceeding will be 'before this Court.' Although the latter phrase can be understood to denote any of the judicial officers authorized to preside over proceedings in the district, it is also reasonably susceptible to the interpretation Laurie claims to have given it—that the district judge who signed the order would preside over the noticed proceeding. Furthermore, Laurie's interpretation has additional weight given that the order did not include any language expressly stating that the matter had been referred to an associate judge nor any language referencing the applicable local rules governing referrals. That ambiguity is fatal to the proposition that the order provided Laurie with effective notice of the referral.

Summary

The order setting the court proceeding was ambiguous and did not effectively notify Laurie of the referral to an associate judge. The lack of specific language indicating a referral to an associate judge and the absence of reference to local rules governing such referrals rendered the notice ineffective. This supports the proposition that actions taken by an associate judge without proper referral are void, as the notice was insufficient to inform the party of the referral, thus affecting jurisdiction.

Texas Court of Appeals

Extract

Section 201.005 of the Texas Family Code provides that 'a judge of a court may refer to an associate judge any aspect of a suit or action, including any matter ancillary to the suit or action, over which the court has jurisdiction under' Title 5 of that code. Tex. Fam. Code. § 201.005(a). Subsection (c) provides that 'A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day

after the date the party receives notice that the associate judge will hear the trial,' id. § 201.005(c), and that, 'If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial,' id.

Summary

The Texas Family Code requires a formal referral process for a case to be heard by an associate judge. If there is no proper referral, the associate judge lacks jurisdiction, and any orders issued are void. The passage highlights the necessity of a written order of referral and the opportunity for parties to object to such referrals. Without a proper referral, the associate judge's actions are void, and this error is not waivable as it is jurisdictional.

[Tex. Fam. Code § 201.006 Tex. Fam. Code § 201.006 Order of Referral](#)

Extract

In referring a case to an associate judge, the judge of the referring court shall render: an individual order of referral; or a general order of referral specifying the class and type of cases to be heard by the associate judge.

Summary

A judge of the referring court must render an order of referral, either individual or general, when referring a case to an associate judge. This requirement is a procedural mandate, and failure to comply with it means that the associate judge lacks jurisdiction to act on the case. Without jurisdiction, any orders issued by the associate judge are void ab initio, meaning they have no legal effect from the outset. This aligns with the legal principle that jurisdictional errors cannot be waived and can be challenged at any time.

[Tex. Fam. Code § 201.007 Tex. Fam. Code § 201.007 Powers of Associate Judge](#)

Extract

Except as limited by an order of referral, an associate judge may: conduct a hearing; hear evidence; compel production of relevant evidence; rule on the admissibility of evidence; issue a summons for: (A) the appearance of witnesses; and (B) the appearance of a parent who has failed to appear before an agency authorized to conduct an investigation of an allegation of abuse or neglect of a child after receiving proper notice; examine a witness; swear a witness for a hearing; make findings of fact on evidence; formulate conclusions of law; recommend an order to be rendered in a case; regulate all proceedings in a hearing before the associate judge; order the attachment of a witness or party who fails to obey a subpoena; order the detention of a witness or party found guilty of contempt, pending approval

by the referring court as provided by Section FAMILY CODE 201.013; without prejudice to the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 and subject to Subsection (c), render and sign: (A) a final order agreed to in writing as to both form and substance by all parties; (B) a final default order; (C) a temporary order; or (D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing; take action as necessary and proper for the efficient performance of the associate judge's duties; and render and sign a final order if the parties waive the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 in writing before the start of a hearing conducted by the associate judge.

Summary

Powers of an associate judge, which are contingent upon an order of referral. Without such an order, the associate judge lacks jurisdiction to take actions such as conducting hearings or issuing orders. This supports the proposition that actions taken by an associate judge without a proper order of referral are void due to lack of jurisdiction. The passage emphasizes the necessity of an order of referral for the associate judge to exercise their powers, indicating that any actions taken without it are not legally valid.

[Tex. Fam. Code § 201.005 Tex. Fam. Code § 201.005 Cases that May Be Referred](#)

Extract

Except as provided by this section, a judge of a court may refer to an associate judge any aspect of a suit or action, including any matter ancillary to the suit or action, over which the court has jurisdiction under: this title; Title 1; Chapter 35, 35A, or 45; Title 4; Subchapter A, Chapter 7B, Code of Criminal Procedure; or Chapter 24A, Property Code.

Summary

A judge has the authority to refer cases to an associate judge, but this authority is contingent upon the court having jurisdiction over the matter. The passage implies that a formal referral process is necessary for an associate judge to have jurisdiction over a case. Without a proper referral, any actions taken by the associate judge would be without jurisdiction and therefore void.

[Tex. Gov't. Code § 54B.007 Tex. Gov't. Code § 54B.007 Order of Referral](#)

Extract

To refer cases to an associate judge, the referring court must issue an order of referral. The order of referral may limit the power or duties of an associate judge.

Summary

A referring court must issue an order of referral to refer cases to an associate judge. This requirement is jurisdictional, meaning that without such an order, the associate judge lacks the authority to act on the case. The absence of an order of referral means that any actions taken by the associate judge are without jurisdiction and therefore void. This aligns with the legal principle that orders issued without jurisdiction are void ab initio and have no legal effect, as supported by the case *In re Guardianship of V.A.*, 390 S.W.3d 414, 418 (Tex. App.—San Antonio 2012, pet. denied).

[Tex. Fam. Code § 201.307](#) [Tex. Fam. Code § 201.307 Methods of Referral](#)

Extract

A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order. The order of referral may limit the power or duties of an associate judge.

Summary

The referral of a case to an associate judge must be done through an order of referral, which can be specific to a case or through an omnibus order. This requirement is crucial because it establishes the jurisdiction and authority of the associate judge to act on the case. Without such an order, the associate judge lacks jurisdiction, and any actions taken would be void. The passage supports the proposition that the absence of an order of referral is a jurisdictional defect that cannot be waived, as jurisdiction is a fundamental requirement for the validity of judicial actions.

[Tex. Gov't. Code § 54A.107](#) [Tex. Gov't. Code § 54A.107 Methods of Referral](#)

Extract

A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order. The order of referral may limit the powers or duties of an associate judge.

Summary

A case must be referred to an associate judge through an order of referral, which can be specific to a case or an omnibus order. This requirement is crucial because it establishes the jurisdiction and authority of the associate judge to act on a case. Without such an order, the associate judge lacks jurisdiction, and any actions taken would be void. The passage supports the proposition that the absence of an order of referral is a jurisdictional defect, which cannot be waived and renders the associate judge's actions void.

[Tex. Gov't. Code § 54A.208 Tex. Gov't. Code § 54A.208 Methods of Referral](#)

Extract

A case may be referred to an associate judge by an order of referral in a specific case or by an omnibus order specifying the class and type of cases to be referred. The order of referral may limit the power or duties of an associate judge.

Summary

A case may only be referred to an associate judge through an order of referral, either specific to the case or through an omnibus order. This indicates that without such an order, the associate judge does not have the jurisdiction to act on the case. The passage also notes that the order of referral can limit the powers or duties of the associate judge, further emphasizing the necessity of such an order for jurisdictional authority.

[Tex. Gov't. Code § 54A.007 Tex. Gov't. Code § 54A.007 Order of Referral](#)

Extract

To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

Summary

The passage clearly states that a judge must issue a written order of referral to assign cases to an associate judge. This requirement is a procedural necessity, and without such an order, the associate judge lacks the jurisdiction to act on the case. The absence of a written order of referral means that any actions taken by the associate judge are without jurisdiction and therefore void. This aligns with the legal principle that orders issued without jurisdiction are void ab initio and have no legal effect, as supported by the case law *In re Guardianship of V.A.*, 390 S.W.3d 414, 418 (Tex. App.—San Antonio 2012, pet. denied).

[Chapter I.B: Subject Matter Jurisdiction](#)

International Aspects of U.S. Litigation. A Practitioner's Deskbook. Volume 1 - American Bar Association - James E. Berger

Extract

a judgment rendered by a court in a case over which the court lacks subject matter jurisdiction is void ab initio and of no effect—its effect is the same as if it never had been entered. Indeed, subject matter jurisdiction is so important that it is one of the few types of defenses that are not subject to waiver, as it may be raised at any time by any of the parties, even after a judgment already has been rendered or after a case has gone up on appeal. Lack of subject matter jurisdiction even may be raised by a court sua sponte. To be sure, not only are courts authorized to raise the issue of subject matter jurisdiction on their own initiative if the parties have failed to do so, they have an affirmative duty to do so.

Summary

The passage clearly states that any judgment rendered without subject matter jurisdiction is void ab initio, meaning it is null from the outset and has no legal effect. This aligns with the proposition that actions taken by an associate judge without a proper order of referral (which would confer jurisdiction) are void. Furthermore, the passage emphasizes that subject matter jurisdiction cannot be waived and can be challenged at any time, supporting the idea that the error cannot be waived and must be addressed.

[Section 54A.007. Order of Referral](#)

Extract

To refer one or more cases to an associate judge, a judge must issue a written order of referral that specifies the associate judge's duties.

Summary

The passage clearly states that a judge must issue a written order of referral to assign cases to an associate judge. This requirement is procedural and jurisdictional, meaning that without such an order, the associate judge lacks the authority to act on the case. The absence of a written order of referral means that any actions taken by the associate judge are without jurisdiction and therefore void. This aligns with the legal principle that orders issued without jurisdiction are void ab initio and have no legal effect, as supported by the case *In re Guardianship of V.A.*, 390 S.W.3d 414, 418 (Tex. App.—San Antonio 2012, pet. denied).

[Section 54B.007. Order of Referral](#)

Extract

To refer cases to an associate judge, the referring court must issue an order of referral.

Summary

An order of referral is required for a case to be referred to an associate judge. This implies that without such an order, the associate judge does not have the jurisdiction to act on the case. The requirement for an order of referral is a procedural safeguard to ensure that the associate judge's actions are within the bounds of their authority. Therefore, any actions taken by the associate judge without this order would be void due to lack of jurisdiction.

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