

Question

Can a judge be recused for clearly favoring an opposing attorney over a pro se litigant in Texas?

Answer (Texas)

Short response

In Texas, a judge can be recused for clearly favoring an opposing attorney over a pro se litigant if this favoritism rises to the level where the judge's impartiality might reasonably be questioned or demonstrates a personal bias or prejudice. However, judicial rulings or remarks alone rarely constitute sufficient grounds for recusal unless they display such a deep-seated favoritism or antagonism that would make fair judgment impossible.

Summary

Under Texas law, judges must recuse themselves in proceedings where their impartiality might reasonably be questioned or where they have a personal bias or prejudice concerning a subject matter or party, as established by Texas Rule of Civil Procedure 18b. When a judge exhibits clear favoritism toward an opposing attorney over a pro se litigant, this could potentially serve as grounds for recusal if the behavior is so pronounced that a reasonable member of the public would doubt the judge's impartiality or if it demonstrates a personal bias that would deprive the pro se litigant of a fair trial.

However, Texas courts have consistently held that judicial rulings, remarks, or actions alone rarely constitute valid grounds for recusal. The movant seeking recusal bears a high burden of proof and must demonstrate that the judge's favoritism or antagonism is of such a degree that it would make fair judgment impossible. Additionally, procedural requirements for filing a motion to recuse must be strictly followed, including proper verification of the motion, and pro se litigants are held to the same procedural standards as attorneys when filing such motions.

Background and Relevant Constitutional and Statutory Law

Texas Constitutional Provisions

The Texas Constitution provides mechanisms for addressing judicial misconduct, including partiality. Under Article V, Section 1-a of the Texas Constitution, a judge may 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," [Tex. Const. art. 5 § 1-a](#). This constitutional provision establishes that judges who engage in conduct inconsistent with their duties, which could include showing favoritism to one party over another, may face removal.

Additionally, Article XV, Section 6 of the Texas Constitution specifically addresses the removal of district court judges. It states that any judge "who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office... may be removed by the Supreme Court," [Tex. Const. art. 15 § 6](#). This provision explicitly mentions "partiality" as grounds for removal, which is directly relevant to situations where a judge may be favoring one party over another.

Texas Rules of Civil Procedure

The primary legal framework for judicial recusal in Texas is found in Rule 18b of the Texas Rules of Civil Procedure. This rule has been consistently cited in Texas case law as providing the grounds for recusal of judges. There are two key provisions within Rule 18b that are particularly relevant to the question of whether a judge can be recused for favoring an opposing attorney over a pro se litigant:

Rule 18b(b)(1): A judge shall recuse himself in any proceeding in which "his impartiality might reasonably be questioned."

Rule 18b(b)(2): A judge shall recuse himself in any proceeding in which "he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding."

These provisions have been repeatedly referenced in Texas case law as the basis for determining whether recusal is warranted. For example, in [Ex Parte Ellis, 275 S.W.3d 109 \(Tex. App. 2008\)](#), the court specifically cited these two provisions as the grounds for recusal.

In administrative hearings, similar standards apply. The Texas Administrative Code states that "A judge is subject to recusal or disqualification on the same grounds and under the same circumstances as specified in TRCP Rule 18b," [1 Tex. Admin. Code § 155.152](#). This demonstrates that the standards for recusal are consistent across different types of proceedings in Texas.

Texas Case Law on Judicial Recusal

The Test for Recusal

Texas courts have established a consistent standard for determining when recusal is required based on questionable impartiality. The test is whether "a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial," [Rodriguez v. Newton, NUMBER 13-19-00309-CV \(Tex. App. Jul 16, 2020\)](#) ("Courts enjoy a presumption of judicial impartiality. See [In Interest of E.R.C., 496 S.W.3d 270, 280 \(Tex. App.—Texarkana 2016, pet. denied\)](#). However, a 'judge must recuse in any proceeding in which... the judge's impartiality might reasonably be questioned.'").

This objective standard is repeatedly emphasized in Texas jurisprudence. In [In re Moore, NUMBER 13-19-00551-CV \(Tex. App. Oct 30, 2019\)](#), the court stated that "The test for recusal under this provision is 'whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.'"

Similarly, [Kniatt v. State, 239 S.W.3d 910 \(Tex. App. 2007\)](#) emphasized this objective test, noting that "Texas cases almost unanimously state the following reasonable-person test for questioned impartiality: 'In determining whether a judge's impartiality might be reasonably questioned so as to require recusal, the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge and the case, would have a reasonable doubt that the judge is actually impartial.'"

The imperative nature of the recusal requirement was highlighted in [Rogers v. Bradley, 909 S.W.2d 872 \(Tex. 1995\)](#), which stated that the language of Rule 18b "is imperative and mandatory, not permissive or discretionary; the standard is objective, not subjective."

High Threshold for Recusal

While the standard for recusal is objective, Texas courts have consistently emphasized that the burden of proving grounds for recusal is high. In [Johnson-Todd v. Morgan, NO. 09-17-00168-CV, NO. 09-17-00194-CV \(Tex. App. Dec 20, 2018\)](#), the court stated that "'A party seeking recusal must satisfy a 'high threshold' before a judge must be recused.' [In the Interest of E.R.C., 496 S.W.3d 270, 279 \(Tex. App.—Texarkana 2016, pet. denied\).](#)'"

This high threshold requires the movant to demonstrate that the bias or partiality is so severe that it deprives them of a fair trial. [Pettigrew v. Cedar Springs Alexandre's Bar, L.P., No. 05-16-00269-CV \(Tex. App. Apr 02, 2018\)](#) explained that "Pettigrew had the burden to prove recusal was warranted. Such burden is met only through a showing of bias or impartiality to such an extent that the movant was deprived of a fair trial."

Judicial Rulings Rarely Constitute Grounds for Recusal

One of the most consistent principles in Texas recusal jurisprudence is that judicial rulings alone rarely constitute valid grounds for recusal. [In the Interest of H.M.S., a Child., 349 S.W.3d 250 \(Tex. App. 2011\)](#) stated that "Judicial rulings alone almost never constitute a valid basis for a motion to recuse based on bias or partiality." This principle has been repeatedly emphasized across numerous cases.

In [Gaal v. State, 332 S.W.3d 448 \(Tex. Crim. App. 2011\)](#), the Texas Court of Criminal Appeals elaborated on this principle, explaining that "a judge's remarks during trial that are critical, disapproving, or hostile to counsel, the parties, or their cases, usually will not support a bias or partiality challenge, although they may do so if they reveal an opinion based on extrajudicial information, and they will require recusal if they reveal 'such a high degree of favoritism or antagonism as to make fair judgment impossible.'"

[Hansen v. Bank, 346 S.W.3d 769 \(Tex. App. 2011\)](#) further clarified this standard, noting that "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion," and opinions the judge forms during a trial do not necessitate recusal "unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible."

In [Ludlow v. DeBerry, 959 S.W.2d 265 \(Tex. App. 1997\)](#), the court explained that "judicial remarks during the course of a trial that are critical or disapproving or even hostile to counsel, parties, or their cases, ordinarily do not support recusal. But they may do so if they reveal an opinion deriving from an extrajudicial source and will do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible."

Extrajudicial Source Doctrine

Texas courts have often referenced what is known as the "extrajudicial source doctrine." This doctrine suggests that bias or prejudice warranting recusal typically stems from an extrajudicial source. [C.J.O., 325 S.W.3d 261 \(Tex. App. 2010\)](#) noted that "Bias sufficient to warrant a recusal commonly stems from an extrajudicial source." The court explained that "when recusal is based on in-court proceedings, the alleged biased rulings or remarks must display a deep-seated favoritism or antagonism that would make a fair judgment impossible."

Procedural Requirements for Recusal Motions

In addition to the substantive standards for recusal, Texas law imposes strict procedural requirements for filing recusal motions. [Jonson v. Duong, 642 S.W.3d 189 \(Tex. App. 2021\)](#) emphasized that "a litigant claiming that a judge is biased or prejudiced must timely move to recuse the judge in the trial court in accordance with Rule 18a; otherwise the issue is waived on appeal."

In [In re Demayo, No. 09-05-074 CV \(TX 4/15/2005\), No. 09-05-074 CV. \(Tex. Apr 15, 2005\)](#), the court pointed out that a motion to recuse must be verified as required by the Texas Rules of Civil Procedure, and that "failure to comply with the procedural requisites for recusal waives the complaint." Importantly, the court also noted that "a pro-se litigant is held to the same standards as a licensed attorney and must comply with the rules of procedure applicable to the case."

Appellate Review of Recusal Denials

If a motion to recuse is denied, the decision can be appealed. [Union Pacific Resources Co., In re, 969 S.W.2d 427 \(Tex. 1998\)](#) explained that "if the appellate court determines that the judge presiding over the recusal hearing abused his or her discretion in denying the motion and the trial judge should have been recused, the appellate court can reverse the trial court's judgment and remand for a new trial before a different judge." However, the court also noted that "the erroneous denial of a recusal motion does not void or nullify the presiding judge's subsequent acts" and "is not fundamental error and can be waived if not raised by proper motion."

[Sun Exploration and Production Co. v. Jackson, 783 S.W.2d 202 \(Tex. 1989\)](#) addressed the role of appellate courts in reviewing cases for patterns of favoritism, stating that "While individual trial court rulings may not constitute reversible error, an appellate court can nevertheless perceive from the record whether a clear pattern of favoritism emerges."

Analysis: Application to Pro Se Litigants

Equal Standards for Pro Se Litigants

Texas courts have made it clear that pro se litigants are held to the same standards as parties represented by counsel. In [In re Demayo, No. 09-05-074 CV \(TX 4/15/2005\), No. 09-05-074 CV. \(Tex. Apr 15, 2005\)](#), the court explicitly stated that "a pro se litigant is held to the same standards as a licensed attorney and must comply with the rules of procedure applicable to the case." This means that while a pro se litigant can seek recusal of a judge who they believe is favoring opposing counsel, they must follow the same procedural requirements and meet the same substantive standards as any other party.

Favoritism Toward Counsel as Grounds for Recusal

The question of whether a judge can be recused for clearly favoring an opposing attorney over a pro se litigant must be analyzed under the established recusal standards. Based on the case law, such favoritism could potentially serve as grounds for recusal if it:

1. Makes the judge's impartiality reasonably questionable to an objective observer; or
2. Demonstrates a personal bias or prejudice against the pro se litigant; and
3. Is so severe that it deprives the pro se litigant of a fair trial.

However, mere unfavorable rulings or remarks would not be sufficient. As [Rhodes v. State, 357 S.W.3d 796 \(Tex. App. 2011\)](#) explained, "Recusal is generally not required purely on the basis of judicial rulings, remarks, or actions, as they would not on their own typically 'evidence the degree of favoritism or antagonism required'; these will usually be grounds for reversal if in error, but not for recusal."

The key question would be whether the judge's favoritism toward the opposing attorney is so extreme that it demonstrates a "deep-seated favoritism or antagonism" that would "make fair judgment impossible." This is a high standard to meet, as emphasized in multiple cases.

Distinguishing Between Legitimate Assistance and Improper Favoritism

Courts may sometimes provide additional guidance to pro se litigants to help them navigate procedural requirements without intending to show bias against represented parties. Conversely, a judge who has more familiarity or a better professional relationship with a particular attorney might appear to favor that attorney while actually maintaining impartiality in decision-making.

The question of recusal for favoring an opposing attorney over a pro se litigant would depend on whether the favoritism rises to the level where an objective observer would doubt the judge's impartiality. As explained in [Guillen v. Cameron Cnty., NUMBER 13-16-00682-CV \(Tex. App. Nov 15, 2018\)](#), "Recusal is appropriate if a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial."

Concrete Examples of When Favoritism Might Warrant Recusal

While the case law does not provide specific examples of favoritism toward an attorney over a pro se litigant that would warrant recusal, the general principles suggest that recusal might be appropriate in situations such as:

A judge who consistently ignores or dismisses the pro se litigant's arguments while giving the opposing attorney's arguments undue weight, to an extent that suggests prejudgment of the case.

A judge who makes remarks showing personal animosity toward the pro se litigant or a personal relationship with the opposing attorney that goes beyond professional courtesy.

A judge who applies different standards to the pro se litigant and the opposing attorney, such as strictly enforcing procedural requirements against the pro se litigant while allowing the attorney significant leeway.

A judge whose pattern of rulings and conduct demonstrates such a clear bias in favor of the opposing attorney that it creates a reasonable doubt about the judge's ability to be impartial.

However, the burden would be on the pro se litigant to demonstrate that the favoritism rises to this level, and mere unfavorable rulings or professional courtesy toward the attorney would not be sufficient.

Exceptions and Caveats

Procedural Requirements Must Be Followed

A pro se litigant seeking recusal must strictly comply with the procedural requirements under Texas Rule of Civil Procedure 18a. [In re Demayo, No. 09-05-074 CV \(TX 4/15/2005\), No. 09-05-074 CV. \(Tex. Apr 15, 2005\)](#) emphasized that a motion to recuse must be verified, and "failure to comply with the procedural requisites for recusal waives the complaint." This is a particularly important consideration for pro se litigants, who might be less familiar with these requirements.

Timing Requirements

The timing of a recusal motion is also critical. [Jonson v. Duong, 642 S.W.3d 189 \(Tex. App. 2021\)](#) noted that "a litigant claiming that a judge is biased or prejudiced must timely move to recuse the judge in the trial court in accordance with Rule 18a; otherwise the issue is waived on appeal." This means that a pro se litigant who believes a judge is favoring opposing counsel cannot wait until an unfavorable ruling to raise the issue.

Subsequent Treatment of Cases

It's worth noting that one of the cases cited, [Spigener v. Wallis, 80 S.W.3d 174 \(Tex. App. 2002\)](#), was declined to follow by *In re Benavides*, 403 S.W.3d 370 (Tex. App. 2013). However, this negative treatment was unrelated to the core principles of recusal discussed in this analysis. The [Spigener](#) case provided general grounds for the removal of judges in Texas, and these general principles remain valid despite the subsequent treatment.

Conclusion

Based on the legal authorities reviewed, a judge in Texas can potentially be recused for clearly favoring an opposing attorney over a pro se litigant, but only if this favoritism:

Is so pronounced that it would cause a reasonable person to doubt the judge's impartiality;

Demonstrates a personal bias or prejudice against the pro se litigant or in favor of the opposing attorney;

Rises to the level of "deep-seated favoritism or antagonism" that would make fair judgment impossible; and

Is so severe that it effectively deprives the pro se litigant of a fair trial.

Texas courts have consistently held that the burden of proving grounds for recusal is high. Judicial rulings, remarks, or conduct alone rarely constitute sufficient grounds for recusal unless they display an extraordinary degree of favoritism or antagonism. This high threshold applies equally to pro se litigants and represented parties.

Furthermore, a pro se litigant seeking recusal must strictly comply with the procedural requirements under Texas Rule of Civil Procedure 18a, including proper verification of the motion and timely filing. Failure to comply with these requirements will result in waiver of the complaint.

While the Texas Constitution and Rules of Civil Procedure provide mechanisms for addressing judicial partiality, including recusal and removal procedures, these remedies are reserved for situations involving clear evidence of bias or prejudice that compromises the judge's ability to render fair judgment. Mere unfavorable rulings or professional courtesy toward an attorney would not be sufficient to warrant recusal.

In practice, a pro se litigant seeking recusal would need to present compelling evidence that the judge's favoritism toward opposing counsel is so extreme that it creates reasonable doubt about the judge's impartiality. This would typically require more than just unfavorable rulings or remarks, such as evidence of an extrajudicial source of bias or conduct that reveals such a high degree of favoritism or antagonism that it makes fair judgment impossible.

The ultimate determination of whether recusal is warranted would depend on the specific facts and circumstances of each case, evaluated under the objective standard of whether a reasonable member of the public would doubt the judge's impartiality.

Legal Authorities

[In re Demayo, No. 09-05-074 CV \(TX 4/15/2005\), No. 09-05-074 CV. \(Tex. Apr 15, 2005\)](#)

Texas Supreme Court

Extract

The relator complains the trial court has not granted or referred her 'Motion to Recuse Judge and Order a New Trial,' filed February 16, 2005. She does not ask this Court to order the judge to act on the pending motion. Instead, the relator seeks the judge's removal from the case. The motion to recuse is not verified, as required by the rules of civil procedure. TEX. R. CIV. P. 18a (a). Failure to comply with the procedural requisites for recusal waives the complaint. Spigener v. Wallis, 80 S.W.3d 174, 180 (Tex. App.-Waco 2002, no pet.). Because the motion is not verified, the relator is not entitled to have the judge removed from the case, nor is she entitled to appointment of a new judge. The relator requests that we '[m]ake a finding that a pro-se litigant is to be treated with the same respect for her rights as a person represented by counsel.' A pro se litigant is held to the same standards as a licensed attorney and must comply with the rules of procedure applicable to the case. Greenstreet v. Heiskell, 940 S.W.2d 831, 834-35 (Tex. App.-Amarillo 1997, no writ). The record presented to us suggests that the trial court's actions in the case may be attributable to defects in the papers filed by the relator. Absent a clear abuse of discretion by the trial court, mandamus is not appropriate. Walker v. Packer, 827 S.W.2d 833, 839-40 (Tex. 1992).

Summary

A motion to recuse a judge must be verified according to Texas Rules of Civil Procedure 18a(a). Failure to meet this requirement results in waiving the complaint. Additionally, pro se litigants are held to the same standards as licensed attorneys and must comply with procedural rules. The passage suggests that the trial court's actions may be due to defects in the relator's filings, and without a clear abuse of discretion, mandamus is not appropriate. This implies that a judge cannot be recused solely for favoring an opposing attorney over a pro se litigant unless procedural requirements are met and there is a clear abuse of discretion.

[Union Pacific Resources Co., In re, 969 S.W.2d 427 \(Tex. 1998\)](#)

Texas Supreme Court

Extract

Judges may be removed from a particular case either because they are constitutionally disqualified, TEX. CONST. art. V, § 11, because they are subject to a statutory strike, TEX. GOVT CODE § 74.053(d), or because they are recused under rules promulgated by this Court. TEX.R. CIV. P. 18a, 18b; TEX.R.APP. P.

16. The grounds and procedures for each type of removal are fundamentally different... In contrast, the erroneous denial of a recusal motion does not void or nullify the presiding judge's subsequent acts. While a judgment rendered in such circumstances may be reversed on appeal, it is not fundamental error and can be waived if not raised by proper motion... Recognizing this distinction, our Rules of Civil Procedure expressly provide for appellate review from a final judgment after denial of a recusal motion. See TEX.R. CIV. P. 18a(f)... If the appellate court determines that the judge presiding over the recusal hearing abused his or her discretion in denying the motion and the trial judge should have been recused, the appellate court can reverse the trial court's judgment and remand for a new trial before a different judge.

Summary

Procedures and grounds for recusal of judges in Texas, including the possibility of appellate review if a recusal motion is denied. It indicates that if a judge is found to have abused discretion in denying a recusal motion, the appellate court can reverse the judgment and order a new trial with a different judge. This suggests that favoritism towards an attorney over a pro se litigant could be grounds for recusal if it constitutes an abuse of discretion.

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

Texas Court of Appeals

Extract

A trial judge may be removed from presiding over a particular case for one of three reasons: (1) disqualification under article V, section 11 of the Texas Constitution; (2) disqualification under section 74.053 of the Government Code (applicable to assigned judges); or (3) recusal under the procedural rules for civil trials and appeals. See *In re Union Pac. Resources Co.*, 969 S.W.2d 427, 428 (Tex. 1998) (orig. proceeding) (citing TEX. CONST. art. V, § 11; TEX. GOV.CODE. ANN. § 74.053(d) (Vernon 1998); TEX.R. CIV. P. 18a, 18b; TEN R.APP. P. 16).

Summary

General grounds for the removal of a judge in Texas, which include disqualification under constitutional and statutory provisions, as well as recusal under procedural rules. While it does not specifically address favoritism towards an attorney over a pro se litigant, it implies that recusal could be sought under procedural rules if bias or partiality is demonstrated.

[Rogers v. Bradley, 909 S.W.2d 872 \(Tex. 1995\)](#)

Texas Supreme Court

Extract

The rule's language is clear, simple and unequivocal: Texas Rule of Appellate Procedure 15a provides that an appellate judge 'shall disqualify or recuse himself in any proceeding in which judges must disqualify themselves under Texas Rule of Civil Procedure 18b....' Rule 18b provides in relevant part that a judge 'shall recuse himself in any proceeding in which ... his impartiality might reasonably be questioned.' Tex.R.Civ.P. 18b(2)(a). The language is imperative and mandatory, not permissive or discretionary; the standard is objective, not subjective.

Summary

Texas Rule of Civil Procedure 18b(2)(a) mandates that a judge must recuse themselves in any proceeding where their impartiality might reasonably be questioned. This standard is objective, meaning it does not depend on the judge's personal feelings or intentions but rather on whether a reasonable person would doubt the judge's impartiality. This rule is applicable to any situation where a judge's impartiality is in question, including cases where a judge might be perceived as favoring one party over another, such as an opposing attorney over a pro se litigant.

[Ludlow v. DeBerry, 959 S.W.2d 265 \(Tex. App. 1997\)](#)

Texas Court of Appeals

Extract

Regarding whether judicial rulings can establish bias, the Supreme Court observed that judicial rulings alone almost never constitute a valid basis for a recusal motion because they cannot possibly show reliance upon an extrajudicial source and can rarely evidence the degree of favoritism or antagonism required when no extrajudicial source is involved. ... The Court further stated that opinions formed by the judge on the basis of facts introduced or events occurring during proceedings do not constitute a basis for a recusal motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. ... Thus, the Supreme Court reasoned that judicial remarks during the course of a trial that are critical or disapproving or even hostile to counsel, parties, or their cases, ordinarily do not support recusal.

Summary

The passage from Ludlow v. DeBerry provides insight into the standards for recusal based on judicial bias or favoritism. It indicates that judicial rulings or remarks alone are typically insufficient for recusal unless they demonstrate a deep-seated favoritism or antagonism that would make fair judgment impossible. This

suggests that a judge's perceived favoritism towards an opposing attorney over a pro se litigant would not automatically warrant recusal unless it meets the high threshold of deep-seated bias.

[In re Pena, 07-21-00170-CV \(Tex. App. Dec 16, 2021\)](#)

Texas Court of Appeals

Extract

The grounds for the disqualification of judicial officers are identified in the Texas Constitution and Rule 18b(a) of the Texas Rules of Civil Procedure. See Tex. Const. Art. V, § 11; Tex.R.Civ.P. 18b(a). A judge may not sit in a case in which (1) the judge served as a lawyer in the matter or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter; (2) the judge knows that, individually or as a fiduciary, the judge has an interest in the subject matter in controversy; or (3) either of the parties may be related to the judge by affinity or consanguinity within the third degree. See Tex. R. Civ. P. 18b(a). The grounds for recusal of an appellate court justice are the same as those identified in Rule 18b(b) of the Texas Rules of Civil Procedure. Tex.R.App.P. 16.2. This Rule provides that a judge must recuse in any proceeding in which: Tex. R. Civ. P. 18b(b).

Summary

Grounds for disqualification and recusal of judges in Texas, as per the Texas Constitution and Texas Rules of Civil Procedure. It specifies that a judge may be disqualified if they have a personal interest in the case, have previously served as a lawyer in the matter, or have a familial relationship with a party involved. However, it does not explicitly mention favoritism towards an attorney over a pro se litigant as a ground for recusal. The determination of recusal is fact-intensive and must be made on a case-by-case basis.

[Rhodes v. State , 357 S.W.3d 796 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

A Texas judge may be removed from a case if he or she is (1) constitutionally disqualified, (2) subject to a statutory strike, (3) subject to statutory disqualification, or (4) subject to recusal under rules promulgated by the Texas Supreme Court. ... Rule 18b(2) of the Texas Rules of Civil Procedure sets forth the law specifically pertaining to recusal of judges, including recusals in criminal proceedings. ... It states in relevant part: 'A judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding....' ... Recusal is generally not required purely on the basis of judicial rulings, remarks, or actions, as they would not on their own typically 'evidence the degree of favoritism or antagonism required'; these will usually be grounds for reversal if in error, but not for recusal. ... On the other hand, recusal is appropriate if the facts are such that a reasonable person would harbor doubts as to the impartiality of the trial judge.

Summary

Recusal is not typically required based solely on judicial rulings or remarks unless they demonstrate a level of favoritism or antagonism that would cause a reasonable person to doubt the judge's impartiality. This suggests that if a judge's actions towards a pro se litigant versus an opposing attorney are such that a reasonable person would question the judge's impartiality, recusal could be warranted.

[Garcia v. State, 11-22-00208-CR \(Tex. App. May 23, 2024\)](#)

Texas Court of Appeals

Extract

Appellant asserted in her motion that Judge Whalen should be recused under Rule 18b(b)(1)-(3) of the Texas Rules of Civil Procedure. ... Rule 18b(b) states, in relevant part, that a judge must recuse in any proceeding in which: Tex. R. Civ. P. 18b(b)(1)-(3). In Gaal, the Texas Court of Criminal Appeals explained in-depth when subsections (1)-(3) merit a judge's recusal. 332 S.W.3d at 453-54 (analyzing a former version of Rule 18b).[] First, the court held that a judge's impartiality might reasonably be questioned to a degree warranting his recusal 'only if it appears that he or she harbors an aversion, hostility or disposition of a kind that a fair-minded person could not set aside when judging the dispute.' Id. at 453 (quoting Liteky v. United States, 510 U.S. 540, 558 (1994)); see Tex. R. Civ. P. 18b(b)(1). The court further explained that subsections (2) and (3)-whether the judge 'has a personal bias or prejudice concerning the subject matter or a party' or 'has personal knowledge of disputed evidentiary facts concerning the proceeding'-are 'more specific' than subsection (1) because they cover 'how the judge feels and what the judge knows.' Gaal, 332 S.W.3d at 453; see Tex. R. Civ. P. 18b(b)(2)- (3). The court stated: Generally... recusal is not required when based solely on judicial rulings, remarks, or actions. These acts 'almost never constitute a valid basis for a bias or partiality motion. In and of themselves. . . , they cannot possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances evidence the degree of favoritism or antagonism required. ... when no extrajudicial source is involved. Almost invariably,...'

Summary

Criteria under which a judge in Texas may be recused according to Rule 18b(b) of the Texas Rules of Civil Procedure. It highlights that a judge's impartiality might be questioned if they exhibit aversion or hostility that a fair-minded person could not set aside. However, it also notes that recusal is not typically warranted based

solely on judicial rulings, remarks, or actions unless there is evidence of reliance on an extrajudicial source or extreme favoritism or antagonism.

[Rodriguez v. Newton, NUMBER 13-19-00309-CV \(Tex. App. Jul 16, 2020\)](#)

Texas Court of Appeals

Extract

Courts enjoy a presumption of judicial impartiality. See *In Interest of E.R.C.*, 496 S.W.3d 270, 280 (Tex. App.—Texarkana 2016, pet. denied). However, a 'judge must recuse in any proceeding in which... the judge's impartiality might reasonably be questioned.' See Tex. R. Civ. P. 18b(b)(1). The test for recusal is 'whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.' Hansen, 346 S.W.3d at 776; see *Sears v. Olivarez*, 28 S.W.3d 611, 614 (Tex. App.—Corpus Christi-Edinburg 2000, no pet.)

Summary

The passage from the Rodriguez v. Newton case provides insight into the standards for recusal in Texas. It highlights that while there is a presumption of judicial impartiality, a judge must recuse themselves if their impartiality might reasonably be questioned. The test for this is whether a reasonable person, knowing all the facts, would doubt the judge's impartiality. This standard is applicable to any case where a judge's conduct might suggest favoritism or bias, including cases involving pro se litigants.

[Pettigrew v. Cedar Springs Alexandre's Bar, L.P., No. 05-16-00269-CV \(Tex. App. Apr 02, 2018\)](#)

Texas Court of Appeals

Extract

Under rules 18b(b)(1) and (2), Texas Rules of Civil Procedure, a judge shall recuse herself in any proceeding in which her impartiality 'might reasonably be questioned' or in which she has 'a personal bias or prejudice concerning the subject matter or a party.' TEX. R. CIV. P. 18b(b)(1), (2). Bias by an adjudicator is not easily established. *In re City of Dallas*, 445 S.W.3d 456, 467 (Tex. App.—Dallas 2014, orig. proceeding). Pettigrew had the burden to prove recusal was warranted. Such burden is met only through a showing of bias or impartiality to such an extent that the movant was deprived of a fair trial. *In re H.M.S.*, 349 S.W.3d 250, 253 (Tex. App.—Dallas 2011, pet. denied). The test for recusal is whether a reasonable member of the public, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is impartial. *Hansen v. JP Morgan Chase Bank, N.A.*, 346 S.W.3d 769, 776 (Tex. App.—Dallas 2011, no pet.).

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. The burden of proof lies with the party seeking recusal, who must demonstrate bias or impartiality to such an extent that it deprives them of a fair trial. The test for recusal is whether a reasonable member of the public, knowing all the facts, would doubt the judge's impartiality.

[Sun Exploration and Production Co. v. Jackson, 783 S.W.2d 202 \(Tex. 1989\)](#)

Texas Supreme Court

Extract

Texas Rule of Civil Procedure 18b mandates that 'judges shall recuse themselves in proceedings in which their impartiality might reasonably be questioned.' ... In cases where knowledge is not acquired until after trial, an appellate court should be able to determine if the trial judge through his rulings and conduct has displayed favoritism. ... While individual trial court rulings may not constitute reversible error, an appellate court can nevertheless perceive from the record whether a clear pattern of favoritism emerges. In such instances, the appellate court should have the right to reverse and remand because of bias evident in the record or to affirm because, in spite of the questioned relationship, the record manifests no bias on the part of the trial judge.

Summary

Standards for recusal under Texas Rule of Civil Procedure 18b, which requires judges to recuse themselves if their impartiality might reasonably be questioned. It also addresses the role of appellate courts in reviewing cases for patterns of favoritism, even if individual rulings do not constitute reversible error. This is relevant to the question of whether a judge can be recused for favoring an opposing attorney over a pro se litigant, as it highlights the importance of perceived impartiality and the mechanisms available for addressing potential bias.

[Duffey v. State, 428 S.W.3d 319 \(Tex. App. 2014\)](#)

Texas Court of Appeals

Extract

A motion to recuse a judge 'must assert one or more of the grounds listed in Rule 18b.' Tex.R. Civ. P. 18a(a)(2). Among other things, a judge must be recused in any proceeding in which 'the judge's impartiality might reasonably be questioned,' Tex.R. Civ. P. 18b(b)(1), or the judge 'has a personal bias or prejudice concerning the subject matter or a party; ... [or] personal knowledge of disputed evidentiary facts concerning the proceedings,' Tex.R. Civ. P. 18b(b)(2).

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning a party. This is relevant to the question as it provides the legal basis for recusal if a judge is perceived to favor one party over another, such as an opposing attorney over a pro se litigant.

[Guillen v. Cameron Cnty. , NUMBER 13-16-00682-CV \(Tex. App. Nov 15, 2018\)](#)

Texas Court of Appeals

Extract

Texas Rule of Civil Procedure 18b provides multiple grounds for recusal. See TEX. R. CIV. P. 18b(b). Potentially relevant to this case, rule 18b provides that a judge must recuse himself in any proceeding in which the judge's impartiality might reasonably be questioned or the judge has a personal bias or prejudice concerning the subject matter or a party. Id. Recusal is appropriate if a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.

Summary

The passage from the case provides insight into the grounds for recusal of a judge in Texas. According to Texas Rule of Civil Procedure 18b, a judge must recuse themselves if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. This suggests that if a judge is clearly favoring an opposing attorney over a pro se litigant, it could be grounds for recusal if it leads to a reasonable doubt about the judge's impartiality.

[Johnson-Todd v. Morgan, NO. 09-17-00168-CV, NO. 09-17-00194-CV \(Tex. App. Dec 20, 2018\)](#)

Texas Court of Appeals

Extract

Morgan argued that these rulings, along with Morgan's lack of notice of a bench trial and his inability to conduct discovery, show that the trial judge had a pervasive bias against Morgan from an extrajudicial source and that the judge's impartiality might reasonably be questioned, making recusal mandatory. We review the denial of a motion to recuse for an abuse of discretion. See Tex. R. Civ. P. 18a(j)(1)(A). 'A party seeking recusal must satisfy a 'high threshold' before a judge must be recused.' In the Interest of E.R.C., 496 S.W.3d 270, 279 (Tex. App.—Texarkana 2016, pet. denied). Under Texas Rule of Civil Procedure 18b(1) and (2), a judge shall recuse himself in any proceeding in which his impartiality 'might reasonably be questioned[]' or in which he has a 'personal bias or prejudice concerning the subject matter or a party[.]' Tex. R. Civ. P. 18b(1), (2). Morgan had the burden to prove recusal was warranted, and such a burden is only met through a showing of bias or impartiality to such an extent that he was deprived of a fair trial. In the Interest of H.M.S., 349 S.W.3d 250, 253 (Tex. App.—Dallas 2011, pet. denied). A judicial ruling alone almost never constitutes a valid basis for a motion to recuse based on bias or partiality. See id. at 255. Under Rule 18b(2), the test for recusal is "whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial."

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. The burden of proof lies with the party seeking recusal, who must demonstrate bias or impartiality to such an extent that they were deprived of a fair trial. A judicial ruling alone is typically insufficient for recusal unless it indicates a pervasive bias from an extrajudicial source. The test for recusal is whether a reasonable member of the public, knowing all the facts, would doubt the judge's impartiality.

[Brosseau v. Ranzau, 81 S.W.3d 381 \(Tex. App. 2002\)](#)

Texas Court of Appeals

Extract

Abuse of discretion does not exist so long as there is some evidence of a substantive and probative character to support the decision. ... We further note that the existence of a friendship between a judge and an attorney appearing before him is not sufficient, without more, to demonstrate partiality. ... Based on the evidence presented at the hearing, we find there was no abuse of discretion in denying the motion.

Summary

Standards for recusal in Texas, emphasizing that a judge's decision is not considered an abuse of discretion if there is substantive evidence supporting it. It also clarifies that a mere friendship between a judge and an attorney is insufficient to prove partiality. This suggests that for a judge to be recused for favoring an attorney over a pro se litigant, there must be more than just a perceived bias; there must be substantive evidence of partiality or abuse of discretion.

[In re Moore, NUMBER 13-19-00551-CV \(Tex. App. Oct 30, 2019\)](#)

Texas Court of Appeals

Extract

Rule 18b provides that a justice must recuse himself or herself in a proceeding in which 'the judge's impartiality might reasonably be questioned.' TEX. R. CIV. P. 18b(b)(1). The test for recusal under this provision is 'whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.'

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned. The test for recusal is whether a reasonable member of the public, knowing all the facts, would have a reasonable doubt about the judge's impartiality. This standard applies generally to cases in Texas and is not limited to specific types of cases or litigants.

[In re C.J.O., 325 S.W.3d 261 \(Tex. App. 2010\)](#)

Texas Court of Appeals

Extract

Recusal is warranted when: (1) the trial judge's impartiality may be questioned, (2) the judge has a personal bias or prejudice concerning a party or the subject matter of the case, and (3) the judge has been a material witness concerning the proceeding. Tex.R. Civ. P. 18b(2)(a)-(c). The denial of a motion to recuse is reviewed under an abuse of discretion standard. Tex.R. Civ. P. 18a(f). We review the totality of the circumstances and will not reverse an assigned judge's ruling if it is within the zone of reasonable disagreement. Kemp v. State, 846 S.W.2d 289, 306 (Tex.Crim.App.1992). The movant bears the burden of proving that a recusal is warranted and satisfies that burden only if he shows bias or partiality to such an extent as to deprive him of a fair trial. See Abdygapparova v. State, 243 S.W.3d 191, 196 (Tex.App.-San Antonio 2007, pet. ref'd). Bias sufficient to warrant a recusal commonly stems from an extrajudicial source. Id. But, when recusal is based on in-court proceedings, the alleged biased rulings or remarks must display a deep-seated favoritism or antagonism that would make a fair judgment impossible. Ludlow v. DeBerry, 959 S.W.2d 265, 281 (Tex.App.-Houston [14th Dist.] 1997, no pet.).

Summary

Conditions under which a judge may be recused in Texas, emphasizing that recusal is warranted if the judge's impartiality is questionable, if there is personal bias or prejudice, or if the judge has been a material witness. It also highlights that the burden of proof lies with the movant to demonstrate bias or partiality to the extent that it deprives them of a fair trial. The passage is relevant as it provides the legal framework for recusal in Texas, which can apply to situations where a judge is perceived to favor an opposing attorney over a pro se litigant.

[Sears v. Nueces County Sheriff Olivarez, 28 S.W.3d 611 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

The Texas Supreme Court mandates that when there exists a reasonable question as to a judge's impartiality, recusal is mandatory. In determining whether recusal is required pursuant to Tex.R.Civ.P. 18b(2)(a), the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain would have a reasonable doubt that a judge is actually impartial. ... Texas Rule of Civil Procedure 18b(2) provides, in part, that judges shall recuse themselves when their impartiality might be questioned or when they have a personal bias or prejudice concerning the subject matter or a party.

Summary

In Texas, a judge must recuse themselves if there is a reasonable question about their impartiality. This is determined by whether a reasonable person, knowing all the facts, would doubt the judge's impartiality. The rules specifically mention that judges should recuse themselves if their impartiality might be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. This suggests that if a judge is perceived to favor an opposing attorney over a pro se litigant, it could be grounds for recusal if it raises a reasonable question about the judge's impartiality.

[Jonson v. Duong, 642 S.W.3d 189 \(Tex. App. 2021\)](#)

Texas Court of Appeals

Extract

In Issue Two, Jonson contends that Judge Livingston erred by failing to recuse or disqualify herself from hearing his case, asserting that she was not 'fair or impartial' in dismissing his lawsuit and refusing to grant his motion to file his out-of-time pleading. In support of his argument, Jonson cites Rule 18b of the Texas Rules of Civil Procedure, which sets forth the grounds for both recusals and disqualifications. Rule 18b provides, in part, that a judge must recuse when 'the judge's impartiality might reasonably be questioned' or when 'the judge has a personal bias or prejudice concerning the subject matter or a party.' See TEX.R.CIV.P. 18b(b)(1), (2). But a litigant claiming that a judge is biased or prejudiced must timely move to recuse the judge in the trial court in accordance with Rule 18a; otherwise the issue is waived on appeal.

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. This is outlined in Rule 18b of the Texas Rules of Civil Procedure. However, the party claiming bias must timely move to recuse the judge in the trial court according to Rule 18a; otherwise, the issue is waived on appeal. This indicates that a pro se litigant, like any other party, must follow these procedural rules to seek recusal.

[Woodruff v. Wright, 51 S.W.3d 727 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

The Texas Rules of Civil Procedure provide that a judge shall recuse himself in any proceeding in which 'his impartiality might reasonably be questioned.' Tex. R. Civ. P. 18b(2)(a). ... In applying this standard, courts often apply a reasonable person standard in determining whether a recusal motion should have been granted. ... We agree that a reasonable person standard is appropriate because the rule provides for recusal where a judge's impartiality might reasonably be questioned. ... Thus, the Supreme Court reasoned that judicial remarks during the course of a trial that are critical or disapproving or even hostile to counsel, parties, or their cases, ordinarily do not support recusal, but they may do so if they reveal an opinion deriving from an extrajudicial source and will do so if they reveal such a high degree of favoritism or antagonism as to make fair judgment impossible.

Summary

A judge in Texas can be recused if their impartiality might reasonably be questioned. This is determined using a reasonable person standard. The passage also notes that judicial remarks that show a high degree of favoritism or antagonism, especially if they derive from an extrajudicial source, can be grounds for recusal. This suggests that if a judge clearly favors an opposing attorney over a pro se litigant to the extent that it makes fair judgment impossible, recusal could be warranted.

[F.S. New Products v. Strong Industries, 129 S.W.3d 594 \(Tex. App. 2003\)](#)

Texas Court of Appeals

Extract

Unlike disqualification, the grounds for the recusal of appellate justices are the same as the grounds for the recusal of trial judges under the Rules of Civil Procedure. Tex.R.App. P. 16.2. Under Rule of Civil Procedure 18b, a judge is required to recuse himself in any proceeding in which his impartiality might reasonably be questioned. Tex.R. Civ. P. 18b(2)(a).

Summary

A judge in Texas can be recused if their impartiality might reasonably be questioned, according to Rule of Civil Procedure 18b(2)(a). This suggests that if a judge is perceived to be favoring one party over another, such as an opposing attorney over a pro se litigant, it could be grounds for recusal if it raises reasonable questions about the judge's impartiality.

[Kniatt v. State, 239 S.W.3d 910 \(Tex. App. 2007\)](#)

Texas Court of Appeals

Extract

Kniatt complains that the assigned judge erred by denying his motion to recuse Judge Knize under Texas Rule of Civil Procedure 18b(2)(a) or (b). Kniatt urged recusal under the following provisions of Rule 18b: A judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; or (b) he has... personal knowledge of disputed evidentiary facts concerning the proceeding. TEX.R. CIV. P. 18b(2)(a), (b). ... Rule 18b(2)(a) plainly states that a 'judge shall recuse himself in any proceeding in which... his impartiality might reasonably be questioned.' TEX.R. CIV. P. 18b(2)(a). Texas cases almost unanimously state the following reasonable-person test for questioned impartiality: 'In determining whether a judge's impartiality might be reasonably questioned so as to require recusal, the proper inquiry is whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge and the case, would have a reasonable doubt that the judge is actually impartial.' ... When impartiality is the basis of the motion, recusal is appropriate if the

movant shows that a reasonable person with knowledge of the circumstances would harbor doubts as to the impartiality of the trial court and shows that the bias is of such a nature and extent that allowing the judge to serve would deny the defendant's right to due process of law.

Summary

Under Texas Rule of Civil Procedure 18b, a judge should recuse themselves if their impartiality might reasonably be questioned. The test for this is whether a reasonable person, knowing all the facts, would doubt the judge's impartiality. This rule is applicable to any proceeding in Texas where a party believes a judge is biased, including cases involving pro se litigants. The passage also clarifies that the bias must be of such a nature that it would deny the defendant's right to due process.

[Ex Parte Ellis, 275 S.W.3d 109 \(Tex. App. 2008\)](#)

Texas Court of Appeals

Extract

The first provides that a 'judge shall recuse himself in any proceeding in which ... his impartiality might reasonably be questioned.' Tex.R. Civ. P. 18b(2)(a). The second provides that a 'judge shall recuse himself in any proceeding in which ... he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.' Id. R. 18b(2)(b).

Summary

The passage from Ex Parte Ellis outlines the conditions under which a judge in Texas may be recused. Specifically, it states that a judge should recuse themselves if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. This is directly relevant to the question of whether a judge can be recused for favoring an opposing attorney over a pro se litigant, as such favoritism could reasonably lead to questions about the judge's impartiality.

[In the Interest of H.M.S., a Child., 349 S.W.3d 250 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

The movant bears the burden of proving that recusal is warranted, and this burden is met only through a showing of bias or partiality to such an extent that the movant was deprived of a fair trial. ... Judicial rulings alone almost never constitute a valid basis for a motion to recuse based on bias or partiality. ... Furthermore, opinions formed by the judge based on facts introduced or events occurring in the course of proceedings do not constitute a valid basis for a recusal motion unless 'they display a deep-seated favoritism or antagonism that would make a fair judgment impossible.'

Summary

Standards for recusal in Texas, emphasizing that the movant must demonstrate bias or partiality to such an extent that it deprives them of a fair trial. Judicial rulings or opinions formed during proceedings are not typically valid grounds for recusal unless they show deep-seated favoritism or antagonism. This indicates that mere favoritism towards an opposing attorney, without evidence of deep-seated bias, may not be sufficient for recusal.

[Hansen v. Bank, 346 S.W.3d 769 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

The substance of the Hansens' argument is that the trial judge was not impartial. This subject is covered by Texas Rule of Civil Procedure 18b(2), which provides that a judge shall recuse herself in any proceeding in which her impartiality 'might reasonably be questioned' or in which she has 'a personal bias or prejudice concerning the subject matter or a party.' ... The test for recusal under rule 18b(2) is 'whether a reasonable member of the public at large, knowing all the facts in the public domain concerning the judge's conduct, would have a reasonable doubt that the judge is actually impartial.' ... 'judicial rulings alone almost never constitute a valid basis for a bias or partiality motion,' and opinions the judge forms during a trial do not necessitate recusal 'unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.'

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned or if they have a personal bias or prejudice. The test for recusal is whether a reasonable person would doubt the judge's impartiality. However, judicial rulings or opinions formed during a trial do not usually justify recusal unless they show deep-seated favoritism or antagonism that makes fair judgment impossible. This means that mere favoritism towards an attorney over a pro se litigant would not automatically warrant recusal unless it is so pronounced that it affects the judge's ability to be fair.

[Gaal v. State , 332 S.W.3d 448 \(Tex. Crim. App. 2011\)](#)

Texas Court of Criminal Appeals

Extract

Rule 18b(2) of the Texas Rules of Civil Procedure sets out the law concerning recusal and includes instances in which a judge must step down from hearing a case for reasons other than the disqualifying grounds listed in the constitution. Rule 18b(2) states, in relevant part, that 'A judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]' ... Thus, a judge's remarks during trial that are critical, disapproving, or hostile to counsel, the parties, or their cases, usually will not support a bias or partiality challenge, although they may do so if they reveal an opinion based on extrajudicial information, and they will require recusal if they reveal 'such a high degree of favoritism or antagonism as to make fair judgment impossible.'

Summary

The passage from the Gaal v. State case provides insight into the circumstances under which a judge in Texas may be recused. Specifically, it highlights that a judge must recuse themselves if their impartiality might reasonably be questioned or if they exhibit personal bias or prejudice. The passage also clarifies that while critical or hostile remarks alone may not warrant recusal, a high degree of favoritism or antagonism that makes fair judgment impossible would require it. This is directly relevant to the question of whether a judge can be recused for favoring an opposing attorney over a pro se litigant, as such favoritism could be seen as compromising the judge's impartiality.

[In re Interest of E.R.C., 496 S.W.3d 270 \(Tex. App. 2016\)](#)

Texas Court of Appeals

Extract

As previously noted, in her first point of error, Stokes asserts that Judge Carroll erred in denying her motion to disqualify or recuse Judge Sulak in violation of Rule 18b. In her motion, Stokes alleged that Judge Sulak's recusal was required by Rule 18b, subsections (b)(1) and (b)(2). Subsections (b)(1) and (b)(2) require a judge to recuse himself in a proceeding in which his 'impartiality might reasonably be questioned' or in which he 'has a personal bias or prejudice concerning the subject matter or a party.' TEX.R. CIV. P. 18b(b)(1), (2).

Summary

The passage provides insight into the grounds for recusal of a judge in Texas, specifically under Rule 18b(b)(1) and (b)(2) of the Texas Rules of Civil Procedure. It states that a judge must recuse themselves if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. This is relevant to the question as it addresses the potential for recusal based on perceived favoritism or bias.

[Tex. Const. art. 15 § 6 Tex. Const. art. 15 § 6 Judges of District Court; Removal By Supreme Court](#)

Extract

Any judge of the District Courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge; or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the Supreme Court.

Summary

Mechanism for addressing such behavior through the Supreme Court's original jurisdiction.

[1 Tex. Admin. Code § 155.152 1 Tex. Admin. Code § 155.152 Disqualification Or Recusal of Judges](#)

Extract

A judge is subject to recusal or disqualification on the same grounds and under the same circumstances as specified in TRCP Rule 18b.

Summary

A judge can be recused or disqualified under the same grounds and circumstances as specified in TRCP Rule 18b. While the passage does not explicitly mention favoritism towards an opposing attorney over a pro se litigant, TRCP Rule 18b generally covers grounds for recusal such as bias or prejudice. Therefore, if a judge's favoritism towards an opposing attorney over a pro se litigant can be demonstrated as bias or prejudice, it could be grounds for recusal under TRCP Rule 18b.

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.

Summary

A judge can be removed for willful or persistent conduct that is inconsistent with their duties or casts discredit on the judiciary. Favoring an opposing attorney over a pro se litigant could potentially fall under this category if it is deemed a willful violation of the Code of Judicial Conduct or conduct that discredits the judiciary. Therefore, the passage provides a basis for recusal or removal if such favoritism is proven.

[Motion for Recusal of Trial Judge](#)

Texas Criminal Forms. Volume II - 2014 - James Publishing - 2023-08-12

Extract

Tex.R.Civ.P. 18b states the situations in which a trial judge should be recused from presiding over a particular case. ... the trial judge's impartiality might reasonably be questioned; the trial judge has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding; ... or any other reason that may be sufficient under law to recuse the trial judge.

Summary

Grounds under Texas Rule of Civil Procedure 18b for recusing a judge, which includes situations where a judge's impartiality might reasonably be questioned or where there is a personal bias or prejudice. This is relevant to the question as it provides a legal basis for recusal if a judge is perceived to favor one party over another, such as an opposing attorney over a pro se litigant.

[Judicial Disqualification and Legitimacy](#)

Litigation - American Bar Association - Charles Gardner Geyh - 2023-07-01

Extract

Second, in addition to situations in which enumerated conflicts arise, judges must recuse themselves when they have a personal bias concerning a party—a subjective standard triggered by actual prejudice... appearance-based standard that calls upon judges to recuse themselves from proceedings in which a reasonable, non-judge observer, fully informed of the circumstances, would doubt the judge's impartiality... Ambiguities in the application of the catchall also arise in the context of disqualifying judges for the appearance of bias. These cases do not feature conflicts of interest in which a particular scenario pits the judge's interests against the interests of a litigant in ways that presumptively call the judge's impartiality into question. Rather, when the appearance of bias is at issue, disqualification turns on whether things the judge said or did, on or off the bench, are sufficiently indicative of prejudice or a closed mind to call the judge's impartiality into question.

Summary

Conditions under which a judge must recuse themselves due to personal bias or the appearance of bias. It highlights that judges must recuse themselves if a reasonable observer would doubt their impartiality. This is relevant to the question as it suggests that if a judge is perceived to favor an opposing attorney over a pro se litigant, it could be grounds for recusal if it creates an appearance of bias.

[EVALUATING JUDICIAL STANDARDS OF CONDUCT IN THE CURRENT POLITICAL AND SOCIAL CLIMATE: THE NEED TO STRENGTHEN IMPROPRIETY STANDARDS AND REMOVAL REMEDIES TO INCLUDE PROCEDURAL JUSTICE AND COMMUNITY HARM.](#)

Albany Law Review - Albany Law School - Kastenberg, Joshua E. - 2019-06-22

Extract

In Texas, the state judicial commission may censure a judge after a formal proceeding, but it can only recommend removal to the state's highest court. (106) ... Breaches of the codes of judicial conduct are not ordinarily a basis for a litigant's claims of partiality, discrimination, or favoritism. (126) Instead, judicial codes of conduct are designed to inform judges on standards of behavior required to ensure that the public has confidence in the judiciary's impartial administration of justice. (127)

Summary

In Texas, while the state judicial commission can censure a judge, it can only recommend removal to the state's highest court. Furthermore, breaches of judicial conduct codes are not typically grounds for claims of partiality, discrimination, or favoritism by a litigant. This suggests that while there are mechanisms to address judicial misconduct, they do not directly provide for recusal based on favoritism unless it undermines public confidence in the judiciary.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2020 - James Publishing - Mark G. Daniel, Robert K. Gill - 2020-08-16

Extract

A judge shall recuse himself in any proceeding in which: ... The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.
Rippo v. Baker, 580 U.S. ___, 137 S.Ct. 905, 907, 197 L.Ed.2d 167 (2017).

Summary

A judge may be required to recuse themselves if there is a high probability of actual bias, even if there is no actual bias. This suggests that if a judge is perceived to be favoring one party over another, such as an opposing attorney over a pro se litigant, and this perception leads to a high probability of bias, recusal may be warranted. The passage references the Due Process Clause, which underscores the importance of impartiality in judicial proceedings.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2021 - James Publishing - Mark G. Daniel, Robert K. Gill - 2021-08-16

Extract

A judge shall recuse himself in any proceeding in which: ... The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.
Rippo v. Baker, 580 U.S. ___, 137 S.Ct. 905, 907, 197 L.Ed.2d 167 (2017).

Summary

A judge in Texas may be required to recuse themselves if there is a high probability of actual bias, even if there is no actual bias. This suggests that if a judge is perceived to be favoring one party over another, such as an opposing attorney over a pro se litigant, and this perception is strong enough to suggest a probability of bias, recusal may be warranted. The passage references the Due Process Clause, which underscores the importance of impartiality in judicial proceedings.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2019 - James Publishing - Mark G. Daniel, Robert K. Gill - 2019-08-16

Extract

Rule 18b(2) of the Texas Rules of Civil Procedure sets out the law concerning recusal and includes instances in which a judge must step down from hearing a case for reasons other than the disqualifying grounds listed in the constitution. Rule 18b(2) states, in relevant part, that a 'judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) ...' The Due Process Clause may sometimes demand recusal even when a judge has no actual bias. Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.

Summary

A judge in Texas can be recused if their impartiality might reasonably be questioned. This includes situations where there is a high probability of actual bias, even if there is no actual bias. The passage specifically mentions that the Due Process Clause may require recusal under such circumstances. This is relevant to the question as it provides a basis for recusal if a judge is perceived to favor one party over another, such as an opposing attorney over a pro se litigant.

[Pretrial motions](#)

Texas Criminal Lawyer's Handbook. Volume 1-2 - James Publishing - Mark G. Daniel, Robert K. Gill - 2022-05-05

Extract

Rule 18b(2) of the Texas Rules of Civil Procedure sets out the law concerning recusal and includes instances in which a judge must step down from hearing a case for reasons other than the disqualifying grounds listed in the constitution. Rule 18b(2) states, in relevant part, that a 'judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) he has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]' Gaal v. State, 332 S.W.3d 448 (Tex. Crim. App. 2011).

Summary

In Texas, a judge can be recused if their impartiality might reasonably be questioned or if they have a personal bias or prejudice concerning the subject matter or a party. This is applicable under Rule 18b(2) of the Texas Rules of Civil Procedure, which is also applied to criminal cases. Therefore, if a judge is clearly favoring an opposing attorney over a pro se litigant, it could be grounds for recusal if it raises reasonable questions about the judge's impartiality or indicates personal bias.

Trial motions

Texas Criminal Forms - Volume 1-2 - James Publishing - Robert K. Gill, Mark Daniel - 2022-04-02

Extract

Rule 18b(2) of the Texas Rules of Civil Procedure sets out the law concerning recusal and includes instances in which a judge must step down from hearing a case for reasons other than the disqualifying grounds listed in the constitution. Rule 18b(2) states, in relevant part, that 'A judge shall recuse himself in any proceeding in which: (a) his impartiality might reasonably be questioned; [or] (b) he has a personal bias or prejudice...'

Summary

The passage from Rule 18b(2) of the Texas Rules of Civil Procedure provides grounds for recusal of a judge. It specifies that a judge should recuse themselves if their impartiality might reasonably be questioned or if they have a personal bias or prejudice. This is directly relevant to the question of whether a judge can be recused for favoring an opposing attorney over a pro se litigant, as such favoritism could reasonably lead to questions about the judge's impartiality.

Sadler v. Big Horn Coal Co., 101917 BLCA, 16-0395 BLA

Court of Appeals of Black Lung Complaints

Extract

Recusal is appropriate whenever a judge exhibits bias or partiality. Liteky v. United States, 510 U.S. 540, 555. Opinions formed by a judge 'on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings,' however, 'do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.'

Summary

Recusal of a judge is appropriate when there is evidence of bias or partiality. However, opinions formed during the proceedings do not automatically warrant recusal unless they show a deep-seated favoritism or antagonism that would make fair judgment impossible. This standard is generally applicable and not limited to a specific type of case.

Sadler v. Big Horn Coal Co., 101917 BLCA, 16-0395 BLA

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Summary

Recusal is appropriate when a judge shows bias or partiality. However, opinions formed during proceedings do not warrant recusal unless they show deep-seated favoritism or antagonism that makes fair judgment impossible. This standard is applicable generally, including in Texas, as it is based on a U.S. Supreme Court decision.

Baker v. Soc. Sec. Admin., 080422 MSPB, CH-1221-17-0318-W-1

Merit Systems Protection Board

Extract

Because the administrative judge's impartiality could reasonably be questioned, he erred in denying the appellant's request for recusal. ... 'This is an objective test that mandates recusal 'when a reasonable person, knowing all the facts, would question the judge's impartiality.'" Allphin, 758 F.3d at 1344 (internal citations omitted).

Summary

A judge can be recused if their impartiality might reasonably be questioned. This is an objective standard, meaning that if a reasonable person, knowing all the facts, would question the judge's impartiality, recusal is mandated. This principle is applicable in various jurisdictions, including Texas, as it is based on federal law (28 U.S.C. § 455(a)).

This memo was compiled by Vincent AI based on vLex materials available as of April 25, 2025. [View full answer on vLex](#)