

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, GALVESTON DIVISION

John Marks v. City of Manvel, et al.

Marks · No. 3:24-cv-00243 · Decided December 1, 2025

SUMMARY

The court grants the Texas Department of Public Safety's motion to quash a subpoena seeking the deposition of a Texas Ranger concerning conversations witnessed during an arrest. Applying Fifth Circuit precedent, the court holds that sovereign immunity protects a state agency and its official from compelled discovery, including third-party subpoenas, when the official was acting in an official capacity. The document's narrative refers to Freddie Douglas, although the caption identifies the plaintiff as John Marks.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Galveston Division
WRITING FOR THE COURT	Andrew M. Edison
JURISDICTION	United States District Court for the Southern District of Texas, Galveston Division
DECIDED	December 1, 2025
DOCKET	3:24-cv-00243
DISPOSITION	other
PROCEDURAL POSTURE	Nonparty Texas Department of Public Safety moved to quash a subpoena seeking the deposition of Texas Ranger Aaron Arizmendi in federal civil-rights litigation. After oral argument, the requesting party abandoned the document-production portion of the subpoena and sought only Arizmendi's deposition testimony.
STANDARD OF REVIEW	The order applies the governing legal rule concerning sovereign immunity and compelled third-party discovery; no separate standard of review is stated.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order

TOPICS

- discovery dispute
- sovereign immunity
- eleventh amendment immunity
- civil procedure
- section 1983

PRACTICE AREAS

civil procedure

civil rights

constitutional law

sovereign immunity

discovery dispute

QUESTIONS PRESENTED

1. Whether state sovereign immunity bars a federal court from compelling a state employee, acting in an official capacity, to comply with a third-party deposition subpoena.
2. Whether Fifth Circuit precedent governing subpoenas directed to state entities and officials applies to the deposition of a Texas Ranger who witnessed relevant events while acting as a state official.

HOLDINGS

1. State sovereign immunity prevents a federal court from compelling a state official acting in his official capacity to appear for a third-party deposition.
2. The fact that the state agency and official were third parties to the litigation does not remove sovereign-immunity protection when the official acted in his official capacity.

KEY QUOTATIONS

“Because Arizmendi was acting in his official capacity as a Texas Ranger when he witnessed the two conversations at issue, sovereign immunity prevents me from forcing a state official like Arizmendi to appear for a deposition.” (Order)

“Accordingly, I grant the motion to quash.” (Order)

FACTUAL BACKGROUND

The opinion states that Texas Ranger Aaron Arizmendi participated in the arrest underlying the federal civil-rights litigation and witnessed conversations involving investigating and arresting law-enforcement officers. The subpoena sought documents and Arizmendi's deposition testimony, but the document request was abandoned at oral argument. Counsel conceded that Arizmendi witnessed the conversations only because he had been asked, in his capacity as a Texas Ranger, to participate in the arrest.

PROCEDURAL HISTORY

The plaintiff served TDPS with a third-party subpoena for documents and the deposition of Texas Ranger Aaron Arizmendi. TDPS objected on state-sovereign-immunity grounds and moved to quash. The district court granted the motion to quash, concluding that binding Fifth Circuit precedent barred compelled discovery from a state official acting in his official capacity.

DISPOSITION

other

CASES CITED

- Russell v. Jones, 49 F.4th 507, 514–15, 518–19 (5th Cir. 2022)

- Thompson v. Richter, No. 24-10837, 2025 WL 1233519, at *2 (5th Cir. Apr. 29, 2025)
- Alden v. Maine, 527 U.S. 706, 715 (1999)
- Mitchell v. Forsyth, 472 U.S. 511, 526 (1985)
- Drs. Hosp. of Laredo v. Cigarroa, No. SA-21-CV-01068, 2023 WL 11987993, at *1 (W.D. Tex. May 19, 2023)
- Steadman v. Tex. Rangers, 179 F.3d 360, 363 (5th Cir. 1999)

OPINION

UNITED STATES DISTRICT COURT December 01, 2025 SOUTHERN DISTRICT OF TEXAS
Nathan Ochsner, Clerk GALVESTON DIVISION JOHN MARKS, § § Plaintiff. § § V. § CIVIL
ACTION NO. 3:24-cv-00243 § CITY OF MANVEL, et al., § § Defendants. § ORDER In this
case, Freddie Douglas alleges that he was falsely accused of aggravated sexual assault. He insists
that if law enforcement officers had properly investigated, they would have discovered that such
allegations were objectively and demonstrably false.

Douglas has served the Texas Department of Public Safety (“TDPS”) with a subpoena, seeking to
depose Texas Ranger Aaron Arizmendi and have him produce six categories of documents. In his
role as a Texas Ranger,¹ Arizmendi reportedly participated in Douglas’s arrest and witnessed two
relevant conversations on the same day as the arrest. One conversation was between the
investigating officers from the Manvel Police Department and the Brazoria County District
Attorney.

The other conversation included the Chief of the El Campo Police Department and the arresting
officers from the Manvel Police Department. TDPS has objected “to providing the requested
information based on state sovereign immunity, which” it insists, “bars compliance with third-
party subpoenas.” Dkt. 69 at 14 (citing Russell v. Jones, 49 F.4th 507, 514–15, 518–19 (5th Cir.

2022)). In accordance with the Galveston Rules of Practice, Douglas has 1 The Texas Rangers are
one of the most famous law enforcement agencies in North America. Organized in 1835, they have
been “eulogized as the white knights of the American Southwest.” Steadman v. Tex. Rangers, 179
F.3d 360, 363 (5th Cir. 1999).

The Texas Rangers became part of the TDPS in 1935. See *id.* submitted a discovery dispute letter.
See Dkt. 69. TDPS has filed a motion to quash. See Dkt. 73. I heard oral argument addressing this
discovery issue. At oral argument, Douglas abandoned his request to have Arizmendi produce
documents. He now seeks to depose Arizmendi only about what he saw and heard in connection
with the two conversations discussed above.

In Russell, the Fifth Circuit held that state sovereign immunity applied to bar third-party
subpoenas served on 17 Texas felony judges in their official capacities in federal court litigation.

See 49 F.4th at 514–15. Douglas argues that Russell does not prohibit Arizmendi, as a state employee, from being compelled to answer a third-party subpoena and appear for a deposition.

In an opinion issued earlier this year, however, the Fifth Circuit squarely rejected Douglas’s position: As an agency of Texas, TDPS receives immunity from suit. We have recognized that “compelled compliance with a subpoena duces tecum violates” sovereign immunity. Russell, 49 F.4th at 515 (quoting *Alden v. Maine*, 527 U.S. 706, 715 (1999)). And even though TDPS is a third party to this litigation, it still receives protection against compelled compliance; “[w]here sovereign immunity applies, it applies totally.” *Id.* at 514.

Furthermore, “sovereign immunity is an immunity from suit (including discovery), not just liability.” *Id.* (emphasis in original) (citing *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)). A state and its agencies cannot be compelled to participate in discovery, even as third parties. Otherwise, the sovereign’s “interests” in its “dignity and authority over its prerogatives” would be treated as “less interesting” when it “is served with a subpoena duces tecum instead of a complaint”—that cannot be the case.

Russell, 49 F.4th at 515. *Thompson v. Richter*, No. 24-10837, 2025 WL 1233519, at *2 (5th Cir. Apr. 29, 2025) (cleaned up).^{2 2} In seeking to minimize Russell’s importance, Douglas relies on a recent opinion from the Western District of Texas. See *Drs. Hosp. of Laredo v. Cigarroa*, No. SA-21-CV- 01068, 2023 WL 11987993 (W.D. Tex. May 19, 2023). *Cigarroa* is inapposite.

In *Cigarroa*, Judge Xavier Rodriguez held that sovereign immunity did not prevent the depositions of two non-party doctors who worked for the University of Texas because the doctors were not “acting as state officials.” *Id.* at *1 (cleaned up). By contrast, Arizmendi was unquestionably acting as a state official in his capacity as a Texas Ranger. I understand Douglas’s frustration.

Douglas believes it is important for him to depose Arizmendi as part of the underlying civil case. But regardless of the importance of Arizmendi’s testimony, my hands are tied. Fifth Circuit precedent is clear.³ At oral argument, Douglas’s counsel conceded that the sole reason Arizmendi observed the two conversations at issue is because he had been asked as a Texas Ranger to participate in Douglas’s arrest.

Because Arizmendi was acting in his official capacity as a Texas Ranger when he witnessed the two conversations at issue, sovereign immunity prevents me from forcing a state official like Arizmendi to appear for a deposition.

Accordingly, I grant the motion to quash. SIGNED this day of December 2025.

ANDREW M. EDISON UNITED STATES MAGISTRATE JUDGE ³ In a response brief, Douglas cites more than 15 district court and circuit court opinions from across the country disagreeing with Russell’s holding that a state and its agencies cannot be compelled to participate in discovery as third parties.

See Dkt. 76 at 5–11. Those cases are interesting to read, but I am required to follow binding Fifth Circuit precedent until the Fifth Circuit or the Supreme Court overturns it. Russell is directly on point.

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