

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

**David Rodriguez v. H-E-B, Jointly and Severally William Tate,
Jointly and Severally and as Employee of H-E-B L.P., Stephen
Martinez Jointly and Severally and as Employee of H-E-B L.P.,
Meredith Reid as Employee of H-E-B L.P., Jointly and Severally,
Debra Ann Godoy as Employee of H-E-B L.P., et al.**

Rodriguez v. H-E-B · No. 04-19-00642-CV & 04-19-00795-CV · Decided April 16, 2020

SUMMARY

The Fourth Court of Appeals of Texas addressed an appellant’s constitutional recusal inquiry in two consolidated appeals. The court stated that any motion seeking disqualification of a justice must comply with Texas Rule of Appellate Procedure 16.3 and noted that certain justices were not related to the referenced trial judges.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Sandee Bryan Marion, Chief Justice; Patricia O. Alvarez, Justice; Luz Elena D. Chapa, Justice
JURISDICTION	Texas
DECIDED	April 16, 2020
DOCKET	04-19-00642-CV & 04-19-00795-CV
DISPOSITION	other
PROCEDURAL POSTURE	The court addressed appellant's constitutional recusal inquiry in a per curiam order concerning two appeals.
PRECEDENTIAL VALUE	Published
PARTIES	David Rodriguez v. Richard R. Storm Jr., Law Office of Shelton & Valadez, Mark A. Giltner, William Tate, Stephen Martinez, H-E-B, Meredith Reid, Debra Ann Godoy, et al.

TOPICS

appellate procedure

constitutional law

civil procedure

PRACTICE AREAS

appellate procedure

judicial recusal

QUESTIONS PRESENTED

1. What procedural requirements apply if appellant seeks to disqualify a justice of the court in connection with the constitutional recusal inquiry?

HOLDINGS

1. If appellant seeks to disqualify a justice of the court, appellant must file a motion complying with Texas Rule of Appellate Procedure 16.3.

KEY QUOTATIONS

“In the event appellant seeks to disqualify a justice of this court, he must file a motion in compliance with TEX. R. APP. P. 16.3.”

FACTUAL BACKGROUND

The opinion concerns appellant's inquiry regarding recusal of members of the Fourth Court of Appeals. The order also notes that Justice Patricia O. Alvarez was not related to the trial judge, Mary Lou Alvarez, and that Justice Luz Elena D. Chapa was not related to Judge Cynthia Marie Chapa.

PROCEDURAL HISTORY

The matters arose from two cases pending in the 150th Judicial District Court of Bexar County, Texas. While the appeals were pending, appellant raised a constitutional recusal inquiry. The court ordered that any motion seeking to disqualify a justice of the court must comply with Texas Rule of Appellate Procedure 16.3.

DISPOSITION

other

CASES CITED

- F.S. New Products, Inc. v. Strong Indus., Inc., 129 S.W.3d 594, 597 (Tex. App.—Houston [1st Dist.] 2003, no pet.)
- McCullough v. Kitzman, 50 S.W.3d 87, 88 (Tex. App.—Waco 2001, pet. denied)

OPINION

David Rodriguez v. H-E-B, Jointly and Severally William Tate, Jointly and Severally and as Employee of H-E-B L.P., Stephen Martinez Jointly and Severally and as Employee of H-E-B L.P., Meredith Reid as Employee of H-E-B L.P, Jointly and Severally, Debra Ann Godoy as Employee of H-E-B L.P.

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas April 16, 2020 No. 04-19-00642-CV & 04-19-00795-CV David RODRIGUEZ, Appellant v. Richard R. STORM Jr.; Law office of Shelton & Valadez; Mark A. Giltner; William Tate; and Stephen Martinez; H-E-B, Jointly and Severally William Tate, Jointly and Severally and as employee of H-E-B L.P., Stephen Martinez Jointly and Severally and as employee of H-E-B L.P., Meredith Reid as employee of H-E-B L.P, Jointly and Severally, Debra Ann Godoy as employee of H-E-B L.P. et al., Appellees From the 150th Judicial District Court, Bexar County, Texas Trial Court No. 2019-CI-13590 & 2019CI16263 Honorable Mary Lou Alvarez, Judge Presiding

ORDER

Sitting: Sandee Bryan Marion, Chief Justice Patricia O. Alvarez, Justice Luz Elena D. Chapa, Justice Pending before the court is appellant's constitutional recusal inquiry. In the event appellant seeks to disqualify a justice of this court, he must file a motion in compliance with TEX. R. APP. P. 16.3. 1 See F.S. New Products, Inc. v. Strong Indus., Inc., 129 S.W.3d 594, 597 (Tex. App.—Houston [1st Dist.] 2003, no pet.); McCullough v. Kitzman, 50 S.W.3d 87, 88 (Tex. App.—Waco 2001, pet. denied); 1 We note Justice Alvarez is not related in any degree to Judge Mary Lou Alvarez and Justice Chapa is not related in any degree to Judge Cynthia Marie Chapa. It is so ORDERED on April 16, 2020.

PER CURIAM

ATTESTED TO: _____

Michael A. Cruz, Clerk of Court