

SUPREME COURT OF TEXAS CONFLICT JURISDICTION CASES

Style	Cite	Year	Description	Conflict found?
Adoue v. Wettermark	58 S.W. 722 (Tex. 1900)	1900	On application for writ of error. No conflict found. Court does not discuss standards for conflict jurisdiction.	No
American National Bank v. Hall	265 S.W. 378 (Tex. Comm'n App. 1924)	1924	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found. Court requires an “irreconcilable conflict” on the case as a whole.</p> <p>“In some respects the material facts underlying the two opinions seems to be virtually identical, and the law announced in them seems to be substantially opposed on at least one important point. But the two are sufficiently distinguishable to withdraw them from the scope of the statute. They are in part based upon materially different facts ...”</p> <p>“Neither the circumstance that one or more of the conclusions of law in the latter opinion may be in conflict with those announced in the other case, nor that some of the facts stated in each of them are virtually identical, establishes a sufficient conflict in a proceeding of this character to justify the relief that is sought. If, as to any given point, any of the substantial facts stated in the opinions are materially different, a conflict is not presented upon such point. The opinions in such respect must be considered ‘as a whole,’ and, when so considered, in order that mandamus may issue, there must be an ‘irreconcilable conflict between the two.’</p>	No
Assman v. Dittman	53 S.W. 342 (Tex. 1899)	1899	<p>On application for writ of error.</p> <p>“In order to show jurisdiction in this court, the appellants aver in their petition for the writ of error that the decision of the appellate court overrules the decision of this court in the case of Stephens v. Mathews' Heirs In order to give us jurisdiction of a reversed and remanded cause upon that ground, a well-defined conflict between the two decisions must appear.”</p>	No
Barber v. Intercoast Jobbers & Brokers	417 S.W.2d 154 (Tex. 1967)	1967	On application for writ of error from interlocutory trial court order denying plea of privilege. Conflict found. Court determines that conflicting case was a “prior decision” because it became final in the court of appeals before the	Yes

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			<p>case at hand due to a pending motion for rehearing in the case at hand.</p> <p>“Intercoast’s argument is that Buckaloo was not ‘a prior decision’ It is settled that ‘a prior decision’ which can serve as a basis for jurisdiction in the Supreme Court because of conflicts, must be a decision that was rendered before and not subsequent to that of the case in which the petition for writ of error is filed. Westchester Fire Ins. Co. v. Redditt</p> <p>The decision in Buckaloo was rendered on December 15, 1966. Since there was no motion for rehearing, the judgment was final after December 30, 1966. The intermediate court rendered its decision in the instant case on December 14, 1966, but there was a motion for rehearing which was not overruled until January 4, 1967. Intercoast’s motion to dismiss urges that Buckaloo cannot be ‘a prior decision’ since the court handed down its opinion one day after the court's opinion in this case. Barber contends, however, that Buckaloo was ‘a prior decision’ because it became final prior to January 4, the time that the decision in this case became final.</p> <p>The meaning of the term ‘decision’ depends upon the context in which it is used and the purposes served. See Palmer Pub. Co. v. Smith ...; Kidd v. McCracken Section 2 of art. 1728 is a basis for jurisdiction by the Supreme Court, because it affords the opportunity for the court to settle the law by resolving conflict between decisions. As long as a decision is subject to withdrawal or change, it cannot be known whether a conflict between decisions will actually exist. It was not, therefore, until the time expired for filing a motion for rehearing that Buckaloo became a final decision and as such afforded a basis for the assertion of its conflict with a later decision.</p> <p>We conclude, therefore, that a conflict with ‘a prior decision’ means a decision that is final. This court has jurisdiction.”</p>	
Bassett v. Sherrod	36 S.W. 400 (Tex. 1896)	1896	<p>On application for writ of error. No conflict found. There is not a “well-defined conflict” even though there was an “apparent inconsistency” in the opinions.</p> <p>“[W]hile we find that there may be some apparent inconsistency between the propositions stated in the opinion in the present case and those announced in the cases referred to in the petition, we think that the present case is</p>	No

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			distinguishable from either of those cited, and that there is not that well-defined conflict between them which is necessary to give this court jurisdiction”	
Benson v. Jones	296 S.W. 865 (Tex. Comm’n App. 1927)	1927	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found.</p> <p>“In no event, therefore, could it be said that this mandamus should issue, unless it should also be said that a mere dictum, not essential to the decision of a case, should require certification. We do not think this can be said. ... ‘It is evident from the foregoing statement, that in neither of the cases cited to show a conflict was the point involved which was decided in the case in which it is sought to compel the Court of Civil Appeals to certify the question. When one court decides a question one way, and another court makes a contrary ruling upon the same question, there is a conflict. Hence unless the question be the same, there can be no conflict. But counsel have labored in argument strenuously to show that the principles announced in the cases cited necessarily lead to a conclusion adverse to that arrived at by the Court of Civil Appeals in the present case. But we do not think that such is the fact. Besides we are of opinion that the conflict must be upon the very question decided and not in the reasoning by which the conclusion is reached.’” (quoting <i>McKay v. Conner</i>)</p> <p>“In the Pierce [v. Willson] case ... it was held that a mandamus would not be awarded to settle conflicts in matters of dicta only.”</p> <p>“It is not the practice of the Supreme Court to occupy its time in determining questions which are immaterial to the determination of a given case.”</p>	No
Bland I.S.D. v. Blue	34 S.W.3d 547 (Tex. 2000)	2000	<p>On petition for review from an interlocutory trial court order denying a plea to the jurisdiction. Conflict found even though court had not discussed the exact point on which a conflict was alleged in the prior opinion, because the point “was essential to our ruling on the face of the opinion.”</p> <p>“We have previously established that ‘[f]or this Court to have jurisdiction on the ground of conflict it must appear that the rulings in the two cases are ‘so far upon the same facts that the decision of one case is necessarily conclusive of the decision in the other.’” ‘The conflict must be on the very</p>	Yes

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			<p>questions of law actually involved and determined, in respect of an issue in both cases, the test being whether one would operate to overrule the other in case they were both rendered by the same court.’ It is also ‘essential that such conflict appear on the face of the opinions themselves’.” (citations omitted)</p>	
Borchers v. Fly	262 S.W. 733 (Tex. Comm’n App. 1924)	1924	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found. The present case would not serve to overrule the other cases if all cases had been decided by the same court.</p> <p>“These opinions are considered not to be in conflict with the opinion below in the sense obtaining in a proceeding of this sort. Applying one test of such a question, it is clear that, if all the cases had been from the same court, the present case, if allowed to stand, would not serve to overrule the others”</p> <p>““The conflict in decisions of Courts of Civil Appeals which will authorize this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and unless this is so there can be no conflict.”” (quoting <i>Garitty v. Rainey</i>)</p>	No
Boxwell v. Ladehoff	400 S.W.2d 303 (Tex. 1966)	1966	<p>On application for writ of error from interlocutory trial court order denying plea of privilege. No conflict found. The conflict was not apparent on the face of the opinions and so there was no jurisdictional conflict, even though the Court knew that the holding in the prior case could have been written to result in a conflict if the CA in that case had pointed out a particular fact.</p> <p>“The two decisions are thus predicated on different facts, and on the face of the opinions there is no inconsistency in the holdings made. It is our understanding that Amarillo lay partly in Randall County when Knudsen was decided, but in determining the jurisdiction of the Supreme Court under Subdivision 2 of Article 1728 we are confined to a consideration of the</p>	No

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			<p>opinions in the cases alleged to be in conflict. We would have jurisdiction here if the court in Knudsen had pointed out in its opinion that Amarillo was situated in two counties and then held that despite this fact venue was properly laid in Potter County under Subdivision 5 of Article 1995.”</p>	
Brown v. Gulf Television Co.	306 S.W.2d 706 (Tex. 1957)	1957	<p>On application for writ of error from denial of plea of privilege. Conflict found.</p> <p>“While this is a plea of privilege case, we have jurisdiction because of conflicting holdings by the Courts of Civil Appeals set forth in Rogers v. Scaling ... and Gulf Television Company v. Brown [the case at hand] ... It appears from the respective opinions that both suits were based upon the erection and maintenance of structures or devices upon the premises of the defendants which allegedly interfered with plaintiff's use of their properties. In the Fort Worth case an advertising sign was involved. In the Galveston case which is presently before us, complaint is made of a television antenna tower erected by defendant upon land owned by it.”</p> <p>“In Rogers v. Scaling the Fort Worth Court ... held that exception 14 of Article 1995, Vernon's Ann.Civ.Stats. relating to damages to land controlled the venue of the suit although the plaintiff ‘alleged that he had no adequate remedy at law and prayed for a mandatory injunction requiring the defendants to remove the (offending) sign, and, in the alternative, asked for damages in the sum of \$10,000’.</p> <p>In the present case, the opinion of the appellate court sets out the petition of the plaintiff Brown, which discloses that he prayed for a ‘mandatory injunction by which the Court order the Defendant to remove its * * * television antenna tower; and in the alternative * * * that it recover from the Defendant judgment for his damages, * * * in the sum of Two Hundred Fifty Thousand Dollars, * * *.’ ... The Galveston Court held that the principal and primary purpose of the suit was to obtain relief by way of injunction and hence venue was not controlled by exception 14 of Article 1995.</p> <p>In Rogers v. Scaling it was also held that a petition which alleged that the erection of a structure or advertising device upon defendant's property which resulted in injury to plaintiff's business and a depreciation in the value of plaintiff's lot for business purposes was a suit for damages to land within the</p>	Yes

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			<p>meaning of exception 14, Article 1995.</p> <p>In the instant case, the Galveston Court has held that the legal cause of action stated alternatively in plaintiff's petition was actually one for consequential damages to plaintiff's business flowing from a claimed illegal interference by defendant through the use of his own land and was not a suit for damages to land within the meaning of exception 14 of Article 1995.</p> <p>We are thus confronted with a double conflict, so to speak. ... Whichever ground be taken for the basis of the decision of the Galveston Court, it necessarily conflicts with a basic and essential holding expressed in <i>Rogers v. Scaling</i>. It thereupon becomes our duty to settle the points of conflict."</p>	
Burton v. Rogers	504 S.W.2d 404 (Tex. 1973)	1973	On application for writ of error from interlocutory trial court order denying plea of privilege. Conflict found, but no discussion of the standard for conflict jurisdiction given.	Yes
Butnaru v. Ford Motor Co.	2001 WL 816149 (Tex. 2001) (rehearing granted 12/6/01)	2001	On petition for review from interlocutory trial court order granting a temporary injunction. Conflict found without extended discussion.	Yes
Cantrell v. Willacy County Water Control & Improvement Dist. No. 1	172 S.W.2d 294 (Tex. 1943)	1943	<p>On application for writ of error from a final judgment of a county court at law. No conflict found.</p> <p>"[I]n order for the Supreme Court to acquire jurisdiction to review a decision of the Court of Civil Appeals in a county court case, on the ground of conflict between decisions, the rulings alleged to be in conflict must be upon some question of law, and so far upon a similar state of facts that the decision in the one case necessarily overrules the decision in the other."</p>	No
Cash America Int'l Inc. v. Bennett	35 S.W.3d 12 (Tex. 2000)	2000	On petition for review from final judgment. Discretionary jurisdiction alleged to be based on a conflict of decisions. Conflict found. Court says that it granted the petition "to resolve an apparent conflict among the courts of appeals".	Yes
Certain Underwriters at Lloyd's of London v. Celebrity, Inc.	988 S.W.2d 731 (Tex. 1998)	1998	On application for writ of error from interlocutory trial court order denying motion to compel arbitration. No conflict found. Ground on which conflict was alleged was "not the basis of [the court of appeals'] holding" Furthermore, a jurisdictional conflict with a "policy" is not possible.	No

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			“Underwriters next assert that this Court has jurisdiction ‘because the decision of the court of appeals conflicts with the well-recognized policy of Texas courts in favor of arbitration.’ However, a conflict with a general ‘policy’ is not sufficient to establish that the court of appeals held differently than another court of appeals or this Court.”	
Christy v. Williams	298 S.W.2d 565 (Tex. 1957)	1957	On application for writ of error. No conflict found. Factual differences resulted in different question of law. “For jurisdiction to attach on the basis of conflict ‘The conflict must be on the very question of law actually involved and determined, in respect of an issue in both cases, the test being whether ‘one would operate to overrule the other in case they were both rendered by the same court.’” (quoting <i>West Disinfecting Co. v. Trustees of Crosbyton I.S.D.</i>)	No
City Nat’l Bank v. Phillips Petroleum Co.	78 S.W.2d 576 (Tex. Comm’n App. 1935)	1935	On application for writ of error. No conflict found. Conflict cannot be with a case that had not yet been decided at the time the CA handed down its opinion. “The rule as to what constitutes a conflict of decisions ... has been stated so often that it need not be repeated here. ... In none of the several decisions cited in the application for writ of error are the facts involved in the ruling materially the same as the facts in this case.” “At the time of the oral argument it was suggested that the decision of the Court of Civil Appeals herein is in conflict with <i>Fidelity & Deposit Company of Maryland v. Fort Worth National Bank</i> That case had not been decided by the Supreme Court when the instant case was decided by the Court of Civil Appeals, and is therefore not ‘a prior decision’”	No
City of Wichita Falls v. Mauldin	39 S.W.2d 859 (Tex. Comm’n App. 1931)	1931	On application for writ of error from final judgment. Conflict found although Court appears to hold that there can be no conflict with an unpublished decision.	Yes
City of Abilene v. McMahan	292 S.W. 525 (Tex. Comm’n App. 1927)	1927	On application for writ of error. No conflict found. ““The conflict in decisions of Courts of Civil Appeals which will authorize	No

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			<p>this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and unless this is so, there can be no conflict.’ [quoting <i>Garitty v. Rainey</i>] ... This clear statement of the rule has been constantly followed and never departed from.”</p> <p>Because no conflict was found, “the Supreme Court has no jurisdiction to decide any question whatever in the case.”</p>	
Coastal Corp. v. Garza	979 S.W.2d 318 (Tex. 1998)	1998	<p>On application for writ of error from interlocutory trial court order certifying class action. No conflict found. Cases need not be factually identical—“immaterial factual variations do not preclude a finding of a jurisdictional conflict.”</p> <p>“While occasionally this Court has suggested that cases cannot conflict without nearly identical facts, more often we have emphasized that the decisions need only be ‘<i>so far upon the same state of facts</i>’ that they would control one another. In short, cases do not conflict if a material factual difference legitimately distinguishes their holdings. On the other hand, immaterial factual variations do not preclude a finding of jurisdictional conflict. A conflict could arise on very different underlying facts if those facts are not important to the legal principle being announced.” (citations omitted)</p>	No
Collins v. F.M. Equip. Co.	347 S.W.2d 575 (Tex. 1961)	1961	<p>On application for writ of error from interlocutory trial court order denying plea of privilege. Conflict found. The petitioner asserted two possible basis for conflict jurisdiction. The Court found one was sufficient.</p> <p>“Since we hold that the decision in the present case is sufficiently in conflict with the decision in the case of <i>Woods v. P. B. S. Motor Company</i>, supra, to give this court jurisdiction, it is unnecessary for us to decide whether or not the holding in the present case is also in conflict with the decision in the case</p>	Yes

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			of Harvey v. Bain”	
Collins v. Ison-Newsome	2001WL1585661 ___ S.W.3d ___ (Tex. Dec. 13, 2001)	2001	<p>On petition for review from interlocutory trial court order denying summary judgment. No conflict found. The court refused to recognize a conflict with an unpublished opinion. Additionally, a jurisdictional conflict must be with a <i>prior</i> decision of an appellate court.</p> <p>“As Texas Rule of Appellate Procedure 47.7 mandates that unpublished opinions ‘have no precedential value and must not be cited as authority by counsel or by a court,’ we limit our jurisdictional analysis to whether the court of appeals’ opinion in this case conflicts with [two published opinions].”</p> <p>“We have conflict jurisdiction only when ‘one of the courts of appeals holds differently from a prior decision of another court of appeals” Because <i>Enriquez</i> is not a “prior decision” of another court of appeals, under the statute’s plain language, the court of appeals in this case could not have ‘held differently’ than the court in <i>Enriquez</i> when it issued its opinion in this case.”</p> <p>“For this Court to have conflict jurisdiction, the rulings in the two cases must be ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’ <i>Coastal Corp. v. Garza</i>, 979 S.W.2d 318, 319 (Tex. 1998). Cases conflict for jurisdictional purposes only if the conflict is upon the very question of law actually decided. <i>Id.</i> Likewise, while factual identity between the cases is not required, cases do not conflict if ‘a material factual difference legitimately distinguishes their holdings.’” <i>Id.</i> at 320.</p>	No
Compton v. Dannenbauer	35 S.W.2d 682 (Tex. 1931)	1931	<p>On application for writ of error. Conflict found.</p> <p>“It is contended that this court is without jurisdiction of this case because only a question of the admissibility of evidence is presented in the application. It is true that it has been held that the Supreme Court will not grant a writ of error under subdivision 6 of article 1728 ... to review a case where the bare issue of the admissibility of evidence is the only question presented, unless the evidence is decisive of the case. However, subdivision 6 of article 1728, <i>supra</i>, defining the jurisdiction of the Supreme Court, is</p>	Yes

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			<p>not intended to limit the jurisdiction of this court as defined in the five preceding subdivisions of such article, but, on the other hand, subdivision 6 is intended to enlarge thereon. It follows, therefore, that the Supreme Court has jurisdiction of all cases defined by the first five subdivisions of the statute, and, where jurisdiction is acquired under any of the first five subdivisions, it is immaterial whether the issues present questions of substantive law or not.</p> <p>Under subdivision 2 of article 1728 ... this court has jurisdiction where the writ of error is granted to settle a conflict, even though the only issue presented be one involving the admissibility of evidence. The writ in the instant case was granted for such purpose. We therefore hold that the Supreme Court has jurisdiction.”</p>	
Coultriss v. City of San Antonio	179 S.W. 515 (Tex. 1915)	1915	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found.</p> <p>“[T]he conflict between the decision of the court in question and that with which it is claimed to be in conflict must be of such a nature that one would operate to overrule the other in case they were both rendered by the same court. In other words, the decisions must be based practically upon the same state of facts and announce antagonistic conclusions. It is not sufficient to give jurisdiction that a Court of Civil Appeals may have misapplied a principle of law announced by a decision of another Court of Civil Appeals or of this court.” (quoting <i>Sun Mutual v. Roberts</i>)</p> <p>“We have held that in order to give this court jurisdiction of a reversed and remanded case on the ground of a conflict of decisions, there must be a well-defined conflict” (quoting <i>Bassett v. Sherrod</i>)</p> <p>“When one court decides a question one way, and another court makes a contrary ruling upon the same question, there is a conflict. Hence unless the question be the same, there can be no conflict. But counsel have labored in argument strenuously to show that the principles announced in the cases cited necessarily lead to a conclusion adverse to that arrived at by the Court of Civil Appeals in the present case. But we do not think that such is the fact. Besides, we are of opinion that the conflict must be upon the very question decided, and not in the reasoning by which the conclusion is</p>	No

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			reached.’” (quoting <i>McKay v. Conner</i>)	
Daimler-Benz Aktiengesellschaft v. Olson	53 S.W.3d 308 (Tex. 2000)	2000	On petition for review from interlocutory trial court order denying special appearance. Court struck petition for review because jurisdiction statement was not in compliance with Rules. Justice Hecht dissented from order striking the petition for review. Ultimately, the Court dismissed the petition for want of jurisdiction.	Conflict
Davis v. National Casualty Co.	175 S.W.2d 957 (Tex. 1943)	1943	On application for writ of error from a final judgment of the trial court. Conflict found. “The conflict that confers jurisdiction upon this court exists when the decisions are based on practically the same state of facts and announce antagonistic conclusions. It is not essential that the facts of the two cases be identical.” (citations omitted) “In each of the two cases the decision turned on the question whether the contrivance or device that was operated on the road and caused the injury was or was not a ‘vehicle’ within the meaning of a policy of insurance which did not define the word. In this case the contrivance or device was a tractor and the attached derrick resting on and carried by rollers placed under it. In the other case the contrivance or device was a tractor and the attached scarifier carried on its own wheels. In this case it was held by the Court of Civil Appeals that the contrivance or device was not a vehicle; in the other case it was held that the contrivance or device was a vehicle.”	Yes
Dixon v. Southwestern Bell Tele. Co.	607 S.W.2d 240 (Tex. 1980)	1980	On application for writ of error from final judgment in a slander case. No conflict found. ““When a conflict of decisions is made the basis of Supreme Court jurisdiction, the conflict must be such that one decision would operate to overrule the other in case they were both decided by the same court. ‘An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.’ It is essential, moreover, that such conflict appear on the face of	No

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			the opinions themselves and that the same be specifically pointed out in the application for writ of error.’” (citations omitted)	
Dockum v. Mercury Ins. Co.	135 S.W.2d 700 (Tex. Comm’n App. 1940)	1940	On application for writ of error from final judgment of county court at law. No conflict found. “The mere fact that the opinion [of the court of appeals] may have incorrectly declared the law has no bearing upon the question of jurisdiction presented.” “It has often been held that in order for such conflict to be shown ‘the rulings must be so far upon the <i>same state of facts</i> that the decision of one case is necessarily conclusive of the decision in the other’”	No
Duncan v. Willis	302 S.W.2d 627 (Tex. 1957)	1957	On application for writ of error in election contest case. Conflict found. No standard for conflict jurisdiction was stated and the discussion of the conflict was one sentence. “[W]e took jurisdiction by reason of the admitted conflict between the decision below, Willis v. Duncan ...and one of the numerous holdings made in Linger v. Balfour”	Yes
Durst v. McCampbell	40 S.W. 955 (Tex. 1897)	1897	On application for writ of error. No conflict found. Court appears to be comparing the CA opinion to briefs in a prior case to determine whether there is conflict jurisdiction.	No
Eichelberger v. Eichelberger	582 S.W.2d 395 (Tex. 1979)	1979	On application for writ of error from final judgment of trial court in divorce case. Conflict found. Conflict was alleged to be with a decision of the United States Supreme Court. “We hold that under Article V, Sections 1 and 3, of the Constitution of Texas, the Supreme Court of Texas possesses the power, and thus the duty, to correct a decision of a Court of Civil Appeals that conflicts with the "supreme law of the land" as established by the Congress and Supreme Court of the United States.” “[W]e are now faced with a case in which no express grant of jurisdiction exists. ... In addition to the express grants of judicial power to each court, there are other powers which courts may exercise though not expressly	Yes

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			authorized or described by constitution or statute. These powers are woven into the fabric of the constitution by virtue of their origin in the common law and the mandate of Tex.Const. Art. II, Sec. 1, of the separation of powers between three co-equal branches. They are categorized as "implied" and "inherent" powers, though some courts have also used the terms incidental, correlative and inferred.”	
Employers Casualty Co. v. National Bank of Commerce	166 S.W.2d 691 (Tex. Comm’n App. 1942)	1942	On application for writ of error from final judgment of county court at law. No conflict found. “ All of the authorities agree that the conflict must be well defined and direct, and that the test is whether one would operate to overrule the other in case they were both rendered by the same court. ... It is now definitely settled that the conflict must exist upon the face of the opinions themselves, and that this court will not go behind the recorded opinions for the purpose of determining whether the records disclose facts which would produce a conflict. Unless, therefore, there is a conflict between the decision of the Court of Civil Appeals in the instant case, based upon the facts disclosed by its opinion, and some prior decision of a court of civil appeals or of the Supreme Court, based upon the facts disclosed in its opinion therein, then this court is without jurisdiction to decide the case.” (citing <i>Dockum v. Mercury Ins. Co.</i>)	No
Employers’ Liability Assur. Corp. v. Trane Co.	163 S.W.2d 398 (Tex. Comm’n App. 1942)	1942	On application for writ of error from final judgment of the trial court. Conflict found. The Court finds a conflict because “[t]he decisions are based on practically the same state of facts and announce antagonistic conclusions.”	Yes
Farrell v. Farrell	374 S.W.2d 870 (Tex. 1963)	1963	On application for writ of error in divorce case. No conflict found. In order for this Court to have jurisdiction ... the asserted conflict must not only be upon a question of law material to the decision in the case, but also such conflict must appear on the face of the opinion. It does not do so here.” (citations omitted)	No
Fleming v. Pellum	287 S.W. 492 (Tex. 1926)	1926	On application for writ of error. No conflict found. “The Supreme Court will not continue to grant writs of error to settle	No

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			conflicts in decisions of Courts of Civil Appeals on points it has already necessarily determined, where the Court of Civil Appeals has not failed to follow the Supreme Court.”	
Friday v. Grant Plaza Huntsville Associates	610 S.W.2d 747 (Tex. 1980)	1980	On application for writ of error from interlocutory trial court order denying plea of privilege. Conflict found. “We have jurisdiction of this venue case because the court of civil appeals has held differently from a prior decision of the court of civil appeals of the Thirteenth Supreme Judicial District in Dina Pak Corp. v. May Aluminum, Inc. ... The decisions in Dina Pak and this case are ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’” (citations omitted)	Yes
Fruit Dispatch Co. v. Rainey	232 S.W. 281 (Tex. 1921)	1921	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. Conflict found. After describing the two cases, the Court says: “The conflict between the holding of the Court of Civil Appeals in its disposition of the present case and these decisions is evident.”	Yes
Galveston, H. & S.A. Ry. Co. v. Herring	113 S.W. 521 (Tex. 1908)	1908	On application for writ of error. No conflict found. The holding of the CA “cannot be held to overrule decisions announcing different conclusions on different facts”	No
Garcia v. American Nat’l Ins. Co.	78 S.W.2d 170 (Tex. Comm’n App. 1935)	1935	On application for writ of error from final judgment of county court at law. No conflict found. “Conflict in decisions must be upon a question of law involved and determined and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced or in the application of recognized principles is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. The ruling must be upon the same question, and unless this is so, there can be no conflict.” (citing <i>Garitty v. Rainey</i> and others)	No
Garitty v. Rainey	247 S.W. 825 (Tex. 1923)	1923	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found.	No

Style	Cite	Year	Description	Conflict found?
			<p>“The conflict in decisions of Courts of Civil Appeals which will authorize this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.”</p>	
Garess v. Fly	266 S.W. 779 (Tex. 1924)	1924	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found.</p> <p>““The conflict in decisions of Courts of Civil Appeals which will authorize this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other, if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.”” (quoting <i>Coultress v. City of San Antonio</i>)</p>	No
Gonzalez v. Avalos	907 S.W.2d 443 (Tex. 1995)	1995	<p>On application for writ of error from interlocutory trial court order denying summary judgment asserting official immunity. No conflict found. As a case of first impression, there was no conflict possible.</p> <p>“For this Court to have jurisdiction on the ground of conflict it must appear that the rulings in the two cases are ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’ Or, ‘in other words, the decision must be based practically upon the same state of facts, and announce antagonistic conclusions.’ ‘An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient.’ We must examine the facts in the case [alleged for conflict] and in the instant case as the facts are reflected in</p>	No

Style	Cite	Year	Description	Conflict found?
			<p>the opinions before us, to determine whether they are so nearly the same that the decision in one of the cases would be conclusive of the decision in the other.” (citations omitted)</p> <p>“This is a novel case presenting for the first time the construction of several ... statutes. It does not conflict, for jurisdictional purposes, with any prior decisions precisely because it is a case of first impression.”</p>	
Gossett v. Citizens’ Ry Co.	69 S.W. 976 (Tex. 1902)	1902	<p>On application for writ of error. No conflict found.</p> <p>“Our conclusion, therefore, is that the decision in the present case does not overrule the decision in either of the cases we have just considered. Therefore there is not that well-defined conflict which is necessary to give the supreme court jurisdiction”</p>	No
Grand Lodge Colored Knights of Pythias v. Green	101 S.W.2d 219 (Tex. Comm’n App. 1937)	1937	<p>On application for writ of error from final judgment of a county court at law. No conflict found.</p> <p>“The rule has often been stated that the character of conflict which must exist between the decision of the Court of Civil Appeals and prior decisions of such courts or of the Supreme Court, in order to confer jurisdiction upon the Supreme Court in county court cases, ‘must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.’” (citations omitted)</p>	No
Gross v. Innes	988 S.W.2d 727 (Tex. 1998)	1998	<p>On application for writ of error from interlocutory trial court order denying summary judgment asserting official immunity. No conflict found. The facts of the conflicting cases were “materially distinguishable” from the case at hand.</p> <p>“Our conflict standard is well-established. ‘For this Court to have jurisdiction on the ground of conflict it must appear that the rulings in the two cases are so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’ As we explained in Coastal Corp. v. Garza, ... this standard ‘does not require factual identity for</p>	No

Style	Cite	Year	Description	Conflict found?
			two cases to conflict.’ ‘[C]ases do not conflict if a material factual difference legitimately distinguishes their holdings. On the other hand, immaterial factual variations do not preclude a finding of jurisdictional conflict. A conflict could arise on very different underlying facts if those facts are not important to the legal principle being announced.’”	
Gulf C. & S.F. Ry Co. v. Hamilton	89 S.W.2d 208 (Tex. Comm’n App. 1936)	1936	On application for writ of error from final judgment of county court at law. No conflict found. ““The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.”” (quoting <i>Garitty v. Rainey</i>)	No
Hajek v. Bill Mowbray Motors, Inc.	647 S.W.2d 253 (Tex. 1983)	1983	On application for writ of error from interlocutory trial court judgment granting temporary injunction. Conflict found. Court’s jurisdiction to review temporary injunctions was limited by 1981 amendment to its jurisdiction statute (VACS art. 4662) such that jurisdiction was limited to dissent or conflict. Court finds conflict with a prior decision of another court of appeals without discussing the facts or holding of the conflicting case.	Yes
Hanchett v. Ward	65 S.W.2d 268 (Tex. Comm’n App. 1934)	1934	On application for writ of error in case appealed from justice court to county court. Court finds no conflict with little discussion and by referring to <i>Layton</i> for standard for conflict jurisdiction.	No
Hanway v. Galveston, H., & S.A. Ry Co.	58 S.W. 724 (Tex. 1900)	1900	On application for writ of error. No conflict found. “[A] well-defined conflict is necessary to give jurisdiction to the supreme court on the ground that the opinion of the court of civil appeals overrules a decision of the supreme court.”	No
Harn v. American Mutual Building & Saving Ass’n	65 S.W. 176 (Tex. 1901)	1901	On application for writ of error. Conflict found. Without much discussion, the Court determines “[t]he conflict between the two decisions is palpable …” and gives the Court jurisdiction.	Yes
Harris v. Willson	59 S.W.2d 106	1933	Mandamus to compel CA to certify question to SC on ground of conflict of	No

Style	Cite	Year	Description	Conflict found?
	(Tex. Comm'n App. 1933)		<p>decisions. No conflict found. “[A]ll of [the allegedly conflicting cases] involve facts so utterly foreign to the facts of the case [at hand] that none of them can be said to constitute conflicts”</p> <p>“[I]t is held that an apparent inconsistency in the principles of law announced, or in the application of recognized principles of law, is not sufficient to justify a mandamus under this statute. The ruling must be so far under a similar state of facts that the decision of one case is necessarily conclusive upon the other. This means that the facts in issue, which are involved in the particular ruling in each of the two cases, must be materially the same in both cases, and the decision in one case as to the legal effect of the facts therein must be contradictory of the other.”</p>	
Hopkins v. First Nat. Bank at Brownsville	551 S.W.2d 343 (Tex. 1977)	1977	<p>On application for writ of error from interlocutory trial court order denying plea of privilege. Conflict found.</p> <p>“Hopkins alleges this Court has jurisdiction under Article 1728 subdivision 2 because the holding of the court of civil appeals here conflicts with the decision in Smith v. First National Bank We believe the Smith case and this one are ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’ Further, the decisions of the courts of civil appeals here and in Smith do conflict. The Smith court held that the notes and the guaranty sued upon were separate and distinct undertakings; therefore, the notes' provisions for performance in a certain county could not be used to establish venue in that county under subdivision 5 in the suit against the guarantor. The Smith holding is such that if it were made by the court of civil appeals that decided this case, it would operate to overrule the decision below. We therefore have jurisdiction to consider the merits of Hopkins' application for writ of error.” (citations omitted)</p>	Yes
International Harvester Co. v. Stedman	324 S.W.2d 543 (Tex. 1959)	1959	<p>On application for writ of error from interlocutory trial court order granting plea of privilege. No conflict found. Precise question of law presented had not been decided by any of the allegedly conflicting cases.</p> <p>“It is well settled, however, that for this Court to have jurisdiction ... the conflict must be such that one decision would operate to overrule the other in case they were both decided by the same court. ... ‘An apparent inconsistency in the principles announced, or in the application of</p>	No

Style	Cite	Year	Description	Conflict found?
			<p>recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.” (citations omitted)</p>	
Jarecki Mfg Co. v. Hinds	6 S.W.2d 343 (Tex. Comm’n App. 1928)	1928	<p>On application for writ of error. No conflict found. CA said its opinion conflicted with another CA’s opinion, but the CA did not announce a contrary rule in the opinion itself.</p> <p>“In Turner & Clayton v. Shackelford ... it was held that in ascertaining whether there be ‘no evidence’ the ‘question must be determined alone from the testimony tending to show’ the material fact, ‘‘completely ignoring testimony to the contrary.’’ In the opinion on rehearing here, it is said there is conflict with that ruling. But the Court of Civil Appeals did not announce a contrary rule, nor (in so far as is disclosed in the opinion itself) was that rule either ignored or misapplied. ... We have examined the allegations of conflict for the one purpose of determining whether or not a conflict of decision within the meaning of Garitty v. Rainey ..., and cases there cited, exists. In our opinion there is (from the standpoint of requisite conflict) no more than ‘apparent inconsistency in the principles announced or in the application of recognized principles’; and that is not sufficient.”</p>	No
John Farrell Lumber Co. v. Wood	400 S.W.2d 307 (Tex. 1966)	1966	<p>On application for writ of error from interlocutory trial court order denying plea of privilege. No conflict found.</p> <p>“When a conflict of decisions is made the basis of Supreme Court jurisdiction, the conflict must be such that one decision would operate to overrule the other in case they were both decided by the same court. ‘An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.’ It is essential, moreover, that such conflict appear on the face of the opinions themselves and that the same be specifically pointed out in the application for writ of error.” (citations omitted)</p>	No

Style	Cite	Year	Description	Conflict found?
Johnson v. Star	47 S.W.2d 608 (Tex. 1932)	1932	<p>On application for writ of error. No conflict found because the question of law was decided in accord with a prior SC opinion and fact that it conflicted with prior CA opinion was not sufficient to confer jurisdiction.</p> <p>“The opinion of the Court of Civil Appeals for the Fifth District in this case ... is in conflict with that of the Court of Civil Appeals for the Sixth District in the case of Johnson v. Chapman Milling Co. We are convinced, however, that the opinion of the first-named court in the instant case is correct, and that the questions at issue have been definitely settled by this court in the cases of Patty-Joiner & Eubank Co. v. Cummins ... and Hajjek & Simecek v. Luck We accordingly refuse the application for writ of error.”</p>	No
Jones v. Hickman	48 S.W.2d 982 (Tex. Comm’n App. 1932)	1932	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found.</p> <p>“The test by which a conflict of decisions, such as will give the Supreme Court jurisdiction, is ... ‘The conflict in decisions of Courts of Civil Appeals which will authorize this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.’” (quoting <i>Garitty v. Rainey</i>)</p>	No
Langdeau v. Republic Nat. Bank of Dallas	341 S.W.2d 161 (Tex. 1960)	1960	<p>On application for writ of error from interlocutory trial court order denying plea of privilege. Conflict found.</p> <p>“We deem it necessary to take note of the respondents’ challenge to the jurisdiction of this court, which is to the effect that when, as here, a conflict of decisions is made the basis of Supreme Court jurisdiction, it is essential that such conflict appear on the face of the opinions themselves, and that petitioner has failed to meet such test. ... We believe that the decision in the present case is sufficiently in conflict with the decision in the case of Guerra</p>	Yes

Style	Cite	Year	Description	Conflict found?
			v. Lemburg ... to give this court jurisdiction.”	
Layton v. Hightower	12 S.W.2d 110 (Tex. Comm’n App. 1929)	1929	<p>Mandamus to compel CA to certify question to SC on ground of conflict of decisions. Conflict found.</p> <p>“The conflict between the two decisions must be upon a question of law that is involved and determined in both cases; and the question of law must be such that a decision thereof by the Supreme Court will necessarily control the disposition of the case in which the certification is sought. If facts in issue, which are involved in a particular ruling in each of the two cases, are materially the same in both cases, and the decision of the court in one case, as to the legal effect of such facts, is contradictory to that of the other court in the other case, then a conflict of decision occurs on a question of law which is ‘involved and determined’ in the two cases.” (citing <i>Garitty v. Rainey</i> and <i>Benson v. Jones</i>)</p> <p>“In both cases, a defamatory statement, shown to have been made in the presence and hearing of third persons who had no interest in the subject-matter of the statement, and whose presence was not designed by the defamer, was claimed to be privileged. In the <i>Perry Bros. Variety Stores Case</i>, it was decided that the defamatory statement was privileged, notwithstanding same was made in the presence and hearing of such third persons; in the other case, a contrary decision of this very question of law was made. In each of the cases, the legal effect, in regard to the privilege asserted by the defamer, of the casual presence of uninterested third persons when the defamatory declaration was uttered, was a material inquiry, made so by facts in issue.”</p>	Yes
MacDonald v. Trammell	356 S.W.2d 143 (Tex. 1962)	1962	<p>On application for writ of error from interlocutory trial court order sustaining plea of privilege. No conflict found.</p> <p>“Both the trial court and the Court of Civil Appeals have reached the correct result and that result may properly rest on a ground other than on a decision of the point of law asserted to be in conflict. A decision of that point will not necessarily control the disposition of this case and we therefore do not have jurisdiction.” (citing <i>Williams v. Williams</i>)</p>	No
Malloy v. Pleasants	262 S.W. 740	1924	Mandamus to compel CA to certify question to SC on ground of conflict of	No

Style	Cite	Year	Description	Conflict found?
	(Tex. Comm'n App. 1924)		decisions. No conflict found.	
Mann v. Durst	37 S.W. 311 (Tex. 1896)	1896	On application for writ of error. “In order to enclose her land, she constructed her fence on two of his outer lines. It is evident that there is a marked distinction between the cases referred to in the application and the case here presented. They involve very different questions. In order to give this court jurisdiction ... upon the ground that two courts of civil appeals have held ‘differently on the same question of law,’ that question must be the same as that presented in the case in which the writ of error is sought.”	No
McCurdy v. Conner	66 S.W. 664 (Tex. 1902)	1902	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. Conflict found. “We have held that, in order to give this court jurisdiction of a ... case on the ground of a conflict of decisions, there must be a well-defined conflict” “The purpose of the law which gives jurisdiction to the supreme court in case the decision of one court of civil appeals overrules another was to settle the conflict”	Yes
McKay v. Conner	107 S.W. 45 (Tex. 1908)	1908	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. Conflict found. Conflict must appear on the face of the opinions and not be a result of the reasoning by which the court reached its conclusion. “When one court decides a question one way, and another court makes a contrary ruling upon the same question, there is a conflict. Hence, unless the question be the same, there can be no conflict. But counsel have labored in argument strenuously to show that the principles announced in the cases cited necessarily lead to a conclusion adverse to that arrived at by the Court of Civil Appeals in the present case. But we do not think that such is the fact. Besides we are of opinion that the conflict must be upon the very question decided, and not in the reasoning by which the conclusion is reached.”	Yes
McKnight v. McKnight	543 S.W.2d 863	1976	On application for writ of error in divorce case. Conflict found. Court	Yes

Style	Cite	Year	Description	Conflict found?
	(Tex. 1976)		simply states that the CA decision is in direct conflict with two identified decisions.	
<i>Montes v. City of Houston</i>	66 S.W.2d 267 (Tex. 2001)	2001	On petition for review, J. Hecht dissenting to denial of petition, and accusing Court of a “mulish aversion” to resolving conflicts among the courts of appeals.	NA
<i>Mooers v. Hunter</i>	67 S.W.2d 860 (Tex. Comm’n App. 1934)	1934	<p>On application for writ of error from final judgment of county court at law. No conflict found because the court of appeals did not discuss the particular trial court error alleged to give rise to the conflict but simply stated that all assignments of error not specifically discussed had been examined and were overruled. Thus, the decision of the CA was not in conflict with the decision of any other CA.</p> <p>“The rule as to what constitutes a conflict of decisions ... ‘The conflict in decisions of Courts of Civil Appeals which will authorize this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and, unless this is so, there can be no conflict.’” (quoting <i>Garitty v. Rainey</i>)</p> <p>““Under this statute the conflict between the decision of the court in question and that with which it is claimed to be in conflict must be of such a nature that one would operate to overrule the other in case they were both rendered by the same court; in other words, the decisions must be based practically upon the same state of facts, and announce antagonistic conclusions. It is not sufficient to give jurisdiction that a court of civil appeals may have misapplied a principle of law announced by a decision of another court of civil appeals or of this court.’” (quoting <i>Sun Mutual v. Roberts, Willis & Taylor.</i>)</p>	No
<i>Nesbett v. Nesbett</i>	428 S.W.2d 663	1968	On application for writ of error from final judgment. No conflict found.	No

Style	Cite	Year	Description	Conflict found?
	(Tex. 1968)		“It appears then that the holding by the court of civil appeals, which is attacked by petitioner, was immaterial to its decision affirming the district court. Therefore, even though such holding should be in conflict with the above cited cases we do not have jurisdiction”	
Newman v. Obersteller	960 S.W.2d 621 (Tex. 1997)	1997	On application for writ of error from interlocutory trial court order denying summary judgment asserting official immunity. Conflict found without extended discussion. Court simply notes the conflict and says it has jurisdiction to resolve it.	Yes
Oliphint v. Christy	299 S.W.2d 933 (Tex. 1957)	1957	On application for writ of error in election contest case. No conflict found. If a statute is passed that overrules the first case before the second case is decided, there can be no conflict. “[I]f it appears that two holdings are contrary to one another, but a statute, which overrules the first holding, has intervened or interceded during the lapse of time between the two decisions, there is no conflict. This is true because the law of the first case has been changed by legislative enactment and that statute is open to interpretation for the first time. Thus the state of the law is once again open to another and new construction by the courts.”	No
Pierce v. Willson	263 S.W.581 (Tex. Comm’n App. 1924)	1924	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found. “In the case of McCurdy v. Conner, 95 Tex. 246, 66 S. W. 664, Chief Justice Gaines says it must appear that ‘practically the same issue of fact’ was presented upon the trial of each of the cases; further, that ‘substantially the same proposition of law’ must be involved in the two cases. Our Supreme Court, in the later case of McKay v. Conner, 101 Tex. 313, 107 S. W. 45, speaks as follows: ‘It is evident from the foregoing statement that in neither of the cases cited to show a conflict was the point involved which was decided in the case in which it is sought to compel the Court of Civil Appeals to certify the question. When one court decides a question one way, and another court makes a contrary ruling upon the same question, there is a conflict. Hence,	No

Style	Cite	Year	Description	Conflict found?
			<p>unless the question be the same, there can be no conflict. But counsel have labored in argument strenuously to show that the principles announced in the cases cited necessarily lead to a conclusion adverse to that arrived at by the Court of Civil Appeals in the present case. But we do not think that such is the fact. Besides we are of opinion that the conflict must be upon the very question decided and not in the reasoning by which the conclusion is reached.'</p> <p>In the very recent case of Garitty v. Rainey, 112 Tex. 369, 247 S. W. 825, Chief Justice Cureton says:</p> <p>'The conflict in decisions of Courts of Civil Appeals which will authorize this court to issue a writ of mandamus and require certification must be upon a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court. The conflict must be well defined. An apparent inconsistency in the principles announced, or in the application of recognized principles, is not sufficient. The rulings must be so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, the rulings alleged to be in conflict must be upon the same question, and unless this is so there can be no conflict. Coultrass v. City of San Antonio, 108 Tex. 150, 179 S. W. 515; McKay v. Conner, 101 Tex. 313, 107 S. W. 45.'"</p>	
Quarles v. Quarles	388 S.W.2d 926 (Tex. 1965)	1965	On application for writ of error in divorce case. No conflict. The petitioner failed to point out a conflict in the application for writ of error.	No
Red River, T. & S. Ry. Co. v. McKerley	86 S.W. 921 (Tex. 1905)	1905	<p>On application for writ of error from final judgment in the trial court. No conflict found. The facts between the allegedly conflicting cases were distinguishable.</p> <p>"Subdivision 5 of article 941 of the Revised Statutes of 1895 gives this court jurisdiction of a case in which the judgment has been reversed and the cause remanded, when 'a Court of Civil Appeals overrules its own decisions, or the decisions of another Court of Civil Appeals or of the Supreme Court.' We have never held that in order to give this court jurisdiction the later decision must expressly overrule the former; but we have held, in effect, that there must be an irreconcilable conflict between the two."</p>	No

Style	Cite	Year	Description	Conflict found?
Releford v. Reserve Life Ins. Co.	276 S.W.2d 517 (Tex. 1955)	1955	On application for writ of error from final judgment of county court at law. Conflict found. “[W]e have concluded that the holding of the Court of Civil Appeals is in conflict with the prior decision of this Court in Hutcherson v. Sovereign Camp ..., the two decisions being ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’”	Yes
Resendez v. Johnson	52 S.W.3d 689 (Tex. 2001)	2001	On petition for review from interlocutory trial court order denying summary judgment asserting official immunity. No conflict found. The cases were factually distinguishable. Some parties argued broadly that the court of appeals’ opinion conflicted with established precedent concerning substantive due process. But they argued specifically only that the court of appeals was wrong under a variety of federal circuit court and United States Supreme Court cases. “Even if the court of appeals was wrong ... the parents have not demonstrated a conflict with any specific case.” The parties also argued that the Court had jurisdiction because the court of appeals erred and because the case involved the construction of a statute. “But these grounds for jurisdiction do not apply in the context of an interlocutory appeal.” Only dissent and conflict will support Supreme Court jurisdiction in an interlocutory appeal. “[A] conflict exists only if ‘the rulings in the two cases are ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’” Moreover, ‘the conflict must be on the very question of law actually involved and determined, in respect of an issue in both cases, the test being whether one would operate to overrule the other in case they were both rendered by the same court.’” (citations omitted)	No
Rogers v. Rogers	561 S.W.2d 172 (Tex. 1978)	1978	On application for writ of error from a final judgment of the trial court. Conflict found. While there was a procedural difference in the conflicting cases, it was of “no significance” and did not prevent a jurisdictional conflict.	Yes

Style	Cite	Year	Description	Conflict found?
			“For a conflict to exist between the decision of a Court of Civil Appeals and a prior decision of the Supreme Court the ruling of the Court of Civil Appeals ‘must be so far upon the same state of facts that decision of one case is necessarily conclusive of the decision in the other.’” (citing <i>Gulf Colorado & Sante Fe Ry v. Hamilton</i> and <i>Garitty v. Rainey</i>)	
Rogers v. Texas & P. Ry Co.	94 S.W. 321 (Tex. 1906)	1906	On application for writ of error. No conflict found.	No
Shirley & Holland v. Connor	80 S.W. 984 (Tex. 1904)	1904	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. No conflict found. “It is apparent ... that there is a broad distinction between the two cases, and that the decision in the one in no wise conflicts with the ruling in the other.”	No
Southwestern Refining Co. v. Bernal	22 S.W.3d 425 (2000)	2000	On petition for review from interlocutory trial court order certifying a class action. Conflict found. The jurisdictional conflict was not on the point of law ultimately decided by the Court. Additionally, the jurisdictional conflict arose from cases that were factually dissimilar. But “[t]he ruling in one is <i>necessarily conclusive</i> in the other on a question of law material to the decision in the case.” (emphasis added) “As we recently observed, the standard for conflicts jurisdiction is whether the rulings in two cases are “so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.” Stating it another way: ‘[f]or jurisdiction to attach on the basis of conflict[,]’ ‘[t]he conflict must be on the very question of law actually involved and determined, in respect of an issue in both cases, the test being whether one would operate to overrule the other in case they were both rendered by the same court.’” (citations omitted) “Conflicts jurisdiction does not require that the two cases be identical either on the facts underlying the causes of action nor on the procedural facts. As we noted in <i>Coastal</i> : ‘In short, cases do not conflict if a material factual difference legitimately distinguishes their holdings. On the other hand, immaterial factual variations do not preclude a finding of jurisdictional conflict. A conflict could arise on very different underlying facts if those facts are not important to the legal principle being announced.’” (citations omitted)	Yes

Style	Cite	Year	Description	Conflict found?
State v. Wynn	301 S.W.2d 76 (Tex. 1957)	1957	<p>On application for writ of error from interlocutory trial court order denying plea of privilege. No conflict found.</p> <p>“When a conflict of decisions is made the basis of Supreme Court jurisdiction it is essential that such conflict appear on the face of the opinions themselves and that the same be specifically pointed out in the application for writ of error. ... ‘[I]f jurisdiction is asserted under subdivision 2, a more extended statement will be required. The application should briefly but pointedly show wherein the decisions are in conflict. In this connection, it should be kept in mind that jurisdiction does not attach because of conflict of decisions unless the rulings are ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’ Generalized conflicting statements taken from two opinions do not create a jurisdictional conflict.” (citations omitted)</p>	No
Sun Mutual Ins. Co. v. Roberts, Willis & Taylor Co.	37 S.W. 311 (Tex. 1896)	1896	<p>On application for writ of error from final judgment of the district court. No conflict found.</p> <p>“[T]he conflict between the decision of the court in question and that with which it is claimed to be in conflict must be of such a nature that one would operate to overrule the other in case they were both rendered by the same court; in other words, the decisions must be based practically upon the same state of facts, and announce antagonistic conclusions. It is not sufficient to give jurisdiction that a court of civil appeals may have misapplied a principle of law announced by a decision of another court of civil appeals or of this court.”</p>	No
Texas Dep’t of Crim. Justice v. Miller	51 S.W.3d 583 (Tex. 2000)	2000	<p>On petition for review from interlocutory trial court order denying plea to the jurisdiction. Conflict found based on something the court did not discuss. The conflicting case (a prior Texas Supreme Court case) had held that the matter ignored by the court of appeals was a necessary prerequisite to proceeding in that kind of lawsuit.</p> <p>“This Court has conflicts jurisdiction if it appears that ‘the rulings in the two</p>	Yes

Style	Cite	Year	Description	Conflict found?
			cases are ‘so far upon the same state of facts that the decision of one case is necessarily conclusive of the decision in the other.’” (quoting <i>Coastal Corp. v. Garza</i>)	
Texas Dep’t of Transp. v. Garza	45 Tex. Sup. Ct. J. 332 (Tex., Jan. 24, 2002)	2002	On petition for review from trial court overruling of motion for summary judgment asserting defense of sovereign immunity. Conflict found. “For conflicts jurisdiction to exist, it must appear that the rulings in the two cases are so far upon the same facts that the decision of one case is necessarily conclusive of the decision in the other. In other words, if one case would operate to overrule the other if both decisions were rendered by the same court, then the test for conflicts jurisdiction has been met.” (internal citations and quotations omitted)	Yes
Texas Dep’t of Transp. v. Ramirez	45 Tex. Sup. Ct. J. 594 (Tex., April 25, 2002)	2002	On petition for review from trial court overruling of motion for summary judgment asserting defense of sovereign immunity. Conflict found. “The rulings in the allegedly conflicting cases must be so far upon the same facts that the decision of one case is necessarily conclusive of the decision in the other.” (internal citations and quotations omitted)	Yes
Texas Nat’l Resource Conservation Comm’n v. IT-Davy	45 Tex. Sup. Ct. J. 558 (Tex., April 11, 2002)	2002	On petition for review from trial court overruling of motion for summary judgment asserting defense of sovereign immunity. Conflict found. “Our conflict jurisdiction exists only if the rulings in the two cases are so far upon the same facts that the decision of one case is necessarily conclusive of the decision in the other. The test is whether one case would operate to overrule the other if the same court rendered both.” (internal citations and quotations omitted)	Yes
Texas Nat’l Resource Conservation Comm’n v. White	46 S.W.3d 864 (Tex. 2001)	2001	On petition for review from interlocutory trial court order denying plea to the jurisdiction. Conflict found. The court of appeals had relied on two grounds in deciding the prior case, one of which was alleged to give rise to the conflict. “[T]he court could have relied on either determination to reach its ultimate conclusion that sovereign immunity had not been waived. But it relied on both.” Thus, conflict jurisdiction was established because one decision “would operate to overrule the other.”	Yes

Style	Cite	Year	Description	Conflict found?
			“Such conflicts jurisdiction exists when one case “would operate to overrule the other in case they were both rendered by the same court.” In other words, it must appear that the decisions in the two cases are ‘so far upon the same state of facts’ that they would control one another.” (citations omitted)	
Texas Dep’t of Transp. v. Jones	8 S.W.3d 636 (Tex. 1999)	1999	On petition for review from interlocutory trial court order denying motion to dismiss asserting official immunity. Conflict found, with little explanation and without specifically identifying the case or cases with which the CA’s decision conflicted. “Jurisdiction in this Court is proper because the court of appeals’ judgment conflicts with decisions of this Court and other courts of appeals.”	Yes
Thacker v. Lindahl	48 S.W.2d 588 (Tex. Comm’n App. 1932)	1932	On application for writ of error from final judgment of the trial court. No conflict found. “The writ of error in this case was granted on account of alleged conflict with the decision in the case of Keller v. Alexander, 24 Tex. Civ. App. 186, 58 S. W. 637. We have carefully examined the opinion of the court in the latter case, and find nothing in the opinion which does not harmonize with the decision of the Court of Civil Appeals in the present case, and with our holding herein. The Supreme Court will not go behind the recorded opinion of an appellate court, in a prior case, for the purpose of producing a conflict of decisions.”	No
Torrez v. Maryland Cas. Co.	363 S.W.2d 235 (Tex. 1962)	1962	On application for writ of error from interlocutory trial court order denying plea of privilege. No conflict found. “When a conflict of decisions is relied upon for Supreme Court jurisdiction the application should briefly and pointedly show wherein the decisions are in conflict. The conflict must be apparent from the face of the opinions and must relate to a question of law. ‘Generalized conflicting statements from two opinions do not create a jurisdictional conflict.’ (quoting J. Calvert’s law review article)	No
Vicars v. Stokely	300 S.W.2d 623 (Tex. 1957)	1957	On application for writ of error in election contest case. Conflict found. Court identifies a conflict with a specific case on a specific question of law, but does not discuss the standard for conflict jurisdiction. It then refuses the	Yes

Style	Cite	Year	Description	Conflict found?
			application for writ of error, having agreed with the opinion and judgment in the case at hand. Thus, the point of law giving rise to conflict jurisdiction does not have to be incorrectly decided.	
Wagner & Brown, Ltd v. Horwood	53 S.W.3d 347 (Tex. 2001)	2001	On petition for review from trial court order refusing to certify a class action. Court dismissed the petition for want of jurisdiction, indicating that the petitioners failed to establish a jurisdictional conflict. Justice Hecht dissented from the Court's overruling of the petitioner's motion for rehearing.	No
Warren v. Willson	192 S.W. 529 (Tex. 1917)	1917	Mandamus to compel CA to certify question to SC on ground of conflict of decisions. Conflict found. After describing the two cases, the Court says: "The conflict between the two decisions is apparent."	Yes
Watson v. First Nat'l Bank	67 S.W. 314 (Tex. 1902)	1902	On application for writ of error. No conflict found. "[F]or this court to assume jurisdiction of a case ... upon the ground of a conflict of decision, a well-defined conflict must be shown."	No
West Disinfecting Co. v. Trustees of Crosby I.S.D.	143 S.W.2d 749 (Tex. Comm'n App. 1940)	1940	On application for writ of error from judgment of county court at law affirming judgment of justice court. No conflict found. "In order, on the ground of conflict of decisions, to give the Supreme Court jurisdiction on a writ of error, or in order to render it the duty of a Court of Civil Appeals to certify a question, there must be a well-defined and direct conflict with the decision of another Court of Civil Appeals or of the Supreme Court, or, in case of writ of error, a well-defined conflict with the decision of another Court of Civil Appeals, or with a prior decision of the court rendering the decision or of the Supreme Court. The conflict must be on the very question of law actually involved and determined, in respect of an issue in both cases, the test being whether 'one would operate to overrule the other in case they were both rendered by the same court.' In other words the question of law must be such that a decision thereof by the Supreme Court will necessarily control the disposition of the case in which the certification or writ of error is sought."	No
Westchester Fire Ins. Co. v. Redditt	204 S.W. 106 (Tex. 1918)	1918	On application for writ of error. No conflict found. "[T]he alleged conflicting opinion was rendered after the decision of the Court of Civil Appeals in the case in which the petition for writ of error is	No

Style	Cite	Year	Description	Conflict found?
			being sought, such alleged subsequent conflict in decision cannot properly be considered in acting upon either the application for the writ of error The conflict in decision contemplated by section 5 of chapter 76, when construed ... is, in our opinion, one between the decision of the Court of Civil Appeals in the case in which the writ of error is being sought and some prior decision of another Court of Civil Appeals or of the Supreme Court.”	
Williams v. Williams	325 S.W.2d 682 (Tex. 1959)	1959	On application for writ of error from final judgment in divorce case. No conflict. Court defines “material to a decision of the case”. “In order for this Court to have jurisdiction on the basis of conflicting decisions ... the conflict must be upon ‘any question of law material to a decision of the case.’ In order to be ‘material to a decision of the case’ the question of law must be such that ‘a decision thereof * * * will necessarily control the disposition of the case.’ Layton v. Hightower, ... See also Benson v. Jones It follows that if the judgment of the Court of Civil Appeals may be affirmed, on the record before us, without regard to the asserted conflicting holding, that holding becomes immaterial and is not ‘material to a decision of the case.’”	No
Yeates v. St. Louis Southwestern Ry Co.	244 S.W. 503 (Tex. 1922)	1922	On application for writ of error. No conflict found. “To confer jurisdiction on the Supreme Court on the ground of conflict alone, the question of law decided must be the same in each case, and the conflict must be of such a nature that the latter decision would necessarily overrule the former, if decided by the same court. The two decisions must be based on practically the same facts, and must announce antagonistic conclusions of law.” (citing <i>Sun Mutual v. Roberts, Willis & Taylor</i>)	No