United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
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Lyle W. Cayce
Clerk

No. 25-40475

Michael Ramirez,

Plaintiff—Appellant,

versus

City of Texas City,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:23-CV-356

Before Southwick, Graves, and Wilson, *Circuit Judges*.

Leslie H. Southwick, *Circuit Judge*:

This is an appeal from a bench trial awarding Michael Ramirez nominal damages for the demolition of his house by the city of Texas City in violation of his procedural due process rights. After this case was removed to federal court, Ramirez included language requesting a jury in the caption of his Certificate of Interested Parties. He continued to serve and file documents with language indicating his jury request throughout the litigation. The district court scheduled the case for a jury trial but changed course the week the trial was supposed to take place, instead conducting a bench trial. The district court erred by refusing to grant Ramirez a jury trial. We VACATE and REMAND.

FACTUAL AND PROCEDURAL BACKGROUND

Michael Ramirez owned a house in Texas City, Texas, which he had purchased to remodel and sell. On April 10, 2022, the house caught fire, causing extensive yet "repairable" damage. Three days later, the city of Texas City sent Ramirez a Notice of Substandard Structure and of Abatement. The Notice explained that the City had "determined [the house] to be substandard" under state law and local ordinances. Based on an inspection, the City decided that the "structure on the Property present[s] a clear and imminent danger to the life, safety[,] or property of any person and will [be] abated without further notice."

Ramirez's architect, Michael Gaertner, "submitted a proposed repair plan to the [C]ity," but the City replied that "the permit process could not proceed until he provided a report from an engineer." Ramirez, however, never obtained such a report. The house "languished" in disrepair for over a year. During this time, Ramirez stored repair materials and other items in the house, including washing machines, a water heater, "siding material," a "rowing machine," two new toilets, a refrigerator, and "solid-core doors." At trial, Ramirez testified that the aforementioned personal property was valued at roughly $15,000.

In May 2023, the City demolished the house without further notice. Ramirez subsequently brought this suit in Texas state court the following October. Ramirez asserted takings and procedural due process claims under both the Texas state constitution and the federal Constitution, bringing the federal procedural due process claim under 28 U.S.C. § 1983. Ramirez sought compensatory damages for the value of the house, the reasonably expected resale profits, the value of the personal property inside the house when demolished, and attorneys' fees. Ramirez's state-court complaint did not include a jury demand, nor was one required at that point under Texas state rules. *See* TEX. R. CIV. P. 216(a).

The City then timely removed the case to federal court, invoking federal question jurisdiction. 28 U.S.C. § 1331. The first document Ramirez filed in federal court and served on the City was his Certificate of Interested Parties, which was received by the court on October 31, 2023.[1] The Certificate included the words "JURY REQUESTED" at the top of the document.

In January 2024, Ramirez filed a motion for partial summary judgment, arguing that the City violated his procedural due process rights. This document, too, contained the words "JURY REQUESTED" in the caption. That motion was denied soon thereafter.

In February 2024, the attorneys for both parties signed a joint discovery and case management plan that stated, "A jury demand was made *prior to removal*, and it was timely."[2] The document also included "JURY REQUESTED" in the caption.

The parties then undertook discovery, culminating in Ramirez's second motion for partial summary judgment in October 2024. Again, this motion included the words "JURY REQUESTED" in the caption. In February 2025, the district court, ruling on several motions, granted partial summary judgment to Ramirez, holding that the City had violated Ramirez's

[1] Ramirez was not required to file a new complaint because he had filed the equivalent in state court and the district court did not order a new complaint. FED. R. CIV. P. 81(c)(2). Accordingly, he did not file an updated complaint in the Southern District of Texas.

[2] Neither party asserts that a jury demand was in fact made prior to removal.

procedural due process rights. In particular, the court found that the City did not seek out and secure the necessary "concurrence[s]" by other city officials and that other procedures were not followed as required by city ordinances and state law. The court, though, left the question of whether the "home presented a 'clear and imminent danger'" for another day.

On February 6, 2025, several weeks before the district court granted partial summary judgment, Ramirez filed proposed jury instructions. On February 18, the court set a trial date, docketing the case for a jury trial on April 7, 2025. On April 1, nearly a month and a half after it had entered its scheduling order, the district court ordered briefing and a status conference for April 8 to hear arguments on the question of whether a jury trial or a bench trial was appropriate. Ramirez argued that the Certificate of Interested Parties he filed after the case was removed served as a proper jury demand under Federal Rule of Civil Procedure 81(c). Fed. R. Civ. P. 81(c). Ramirez's brief also functioned, in the alternative, as a Rule 39(b) motion for a jury trial. *Id.* R. 39(b). Ramirez contended that the "strong and compelling reasons" needed to deny a Rule 39(b) motion were lacking. *Id.*

At the status conference on April 8th, the district court heard brief arguments before stating the following:

> What I'm inclined to do is to conduct this as a bench trial next week . . . because I think the defense is correct on whether . . . a proper timely jury demand got made. So [we will] run it as a bench trial next week.

The district judge then informed the parties that a bench trial would be a fair and useful procedure:

> And look, Mr. Ramirez and the City are going to get a fair trial. I know it's not going to be in front of a jury but it's going to be a fair trial with a good resolution[,] and I know that

> that's . . . mainly what you want is to get a resolution and to put this behind you and to move forward.

The district court re-docketed the case as a bench trial, which was conducted on April 14.

After the trial, the district court found that the house was not in fact a clear and imminent danger warranting emergency demolition at the time it was destroyed. Thus, Ramirez was protected by the local ordinances' non-emergency procedures. The court, though, found that the property was a "public nuisance and 'substandard,'" such that demolition was warranted, even if the City was obligated to follow certain procedures—that it did not follow—to reach that conclusion. In sum, the district court held that the City was justified in demolishing the house, but not in the manner it carried out the demolition.

The district court also ruled on the question of damages, holding that Ramirez was entitled solely to nominal damages. In particular, the court determined that the City's demolition of Ramirez's house did not constitute a taking under the Fifth Amendment because the City merely abated a nuisance, which does not implicate the Fifth Amendment. The district court also held that Ramirez was not entitled to damages for the loss of his personal property that was inside the house at the time of the demolition. The court analyzed the issue under the Fourth Amendment's guarantee against unreasonable searches and seizures, though Ramirez had not brought a Fourth Amendment claim.

Finally, the district court denied Ramirez's claim for attorneys' fees because it did not consider him the prevailing party, having been awarded only nominal damages.

Ramirez timely appealed. The City did not file a cross-appeal challenging the district court's holding that the City violated Ramirez's procedural due process rights.

DISCUSSION

The issues on appeal are whether the district court erred in (1) denying a jury trial, (2) awarding solely nominal damages, and (3) holding that Ramirez was not a prevailing party. Because we reverse on the first, we leave the others for resolution by the district court and the jury.

I. Right to a Jury Trial

Ramirez makes two arguments concerning the denial of a jury trial. First, he contends that he sufficiently demanded a jury trial under Rule 38(b)(1) by including jury request language in the caption of the Certificate of Interested Persons filed before a complaint would have been due, had he been inclined to file a new one. Second, he argues that, in the alternative, the district court improperly denied his Rule 39(b) motion for a jury trial. The City agrees with Ramirez that this is the "type of case" that triggers the Seventh Amendment right to a jury trial. Even so, the City contends Ramirez did not properly invoke his right to a jury trial, and the district court's reasons for denying Ramirez's Rule 39(b) motion were proper.

This appeal presents issues about one of the fundamental rights found in the Bill of Rights. The Seventh Amendment provides: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." U.S. CONST. amend. VII. There is no dispute that the claims in this case gave Ramirez a right to a jury trial, but the right must have been asserted in a procedurally sufficient manner. We summarize the relevant procedural rules.

Federal Rule of Civil Procedure 81(c)(3) dictates the procedure for jury demands in cases removed to federal court. FED. R. CIV. P. 81(c)(3). Relevant to this case, it provides: "If all necessary pleadings have been served at the time of removal, a party entitled to a jury trial under Rule 38 must be given one if the party serves a demand within 14 days after: . . . it is served with a notice of removal filed by another party." *Id.* R. 81(c)(3)(B). Rule 38 allows a party to "demand a jury trial by: (1) serving the other parties with a written demand — which may be included in a pleading — no later than 14 days after the last pleading directed to the issue is served; and (2) filing the demand in accordance with Rule 5(d)." *Id.* R. 38(b). A party "waives a jury trial unless its demand is properly served and filed" as specified in Rule 38. *Id.* R. 38(d). Rule 39(b), though, provides that if Rule 38 is not scrupulously followed, "the court may, on motion, order a jury trial on any issue for which a jury might have been demanded." *Id.* R. 39(b).

These rules implement the Seventh Amendment's constitutional right to a jury trial. The rules' procedural requirements reflect the importance of the Seventh Amendment right by requiring a jury trial even when there is a deviation from strict adherence to procedure. Because "the right of jury trial is fundamental," federal courts must "indulge every reasonable presumption against waiver." *Jennings v. McCormick*, 154 F.3d 542, 545 (5th Cir. 1998) (quoting *Bowles v. Bennett*, 629 F.2d 1092, 1095 (5th Cir. 1980)).

We conclude that the district court erred in denying Ramirez's Rule 39(b) motion. Consequently, we do not consider the adequacy of the demand for a jury trial in the Certificate of Interested Parties.

A. Ramirez's Rule 39(b) Motion

We review the district court's denial of the motion for abuse of discretion. *Pinemont Bank v. Belk*, 722 F.2d 232, 235 (5th Cir. 1984). Yet, our cases require "favorable treatment of Rule 39(b) motions," as that rule governs a party's access to their constitutional right to a jury. *Lewis v. Thigpen*, 767 F.2d 252, 259 (5th Cir. 1985). This favorable treatment is reflected in our approach to the standard of review: "[T]he [S]eventh [A]mendment confers a fundamental right. This modifies the usual approach to review of abuse of discretion." *Daniel Int'l Corp. v. Fischbach & Moore, Inc.*, 916 F.2d 1061, 1064 (5th Cir. 1990). Indeed, a "motion for trial by jury under this rule 'should be favorably received unless there are persuasive reasons to deny it.'" *Id.* (quoting *United States v. Unum, Inc.*, 658 F.2d 300, 303 (5th Cir. 1981)). Those reasons must be "strong and compelling"; otherwise, the motion should be granted, and it is an abuse of discretion not to do so. *Id.* (quoting *Swofford v. B&W, Inc.*, 336 F.2d 406, 409 (5th Cir. 1964).

Five factors are to be considered in determining whether there were in fact strong and compelling reasons for denying the motion:

> (1) whether the case involves issues which are best tried to a jury; (2) whether granting the motion would result in a disruption of the court's schedule or that of an adverse party; (3) the degree of prejudice to the adverse party; (4) the length of the delay in having requested a jury trial; and (5) the reason for the movant's tardiness in requesting a jury trial.

Id. (quoting *Parrott v. Wilson*, 707 F.2d 1262, 1267 (11th Cir. 1983).

We now analyze each of the *Daniel* factors.

First, "whether the case involves issues which are best tried to a jury." *Daniel*, 916 F.2d at 1064. That factor considers whether the issues are "well within the comprehension of a jury." *Id.* Ramirez argues that the issues presented in this case are "quintessential jury issues." The City attempts to undermine Ramirez's argument by characterizing one of the cases he cites as bearing solely on the summary judgment standard, not whether labeling something a public nuisance is a quintessential jury issue. *See Vulcan Materials Co. v. City of Tehuacana*, 369 F.3d 882, 895 (5th Cir. 2004). Notably, the City's brief on appeal "does not allege that any of the claims would be inappropriate for a jury to decide."

We acknowledge that *Vulcan* was decided at the summary judgment phase, but this court's holding is unmistakable that a structure's status as a nuisance-in-fact requires the resolution of fact issues that can be decided by a jury. *Id.* Indeed, the nuisance question is one Ramirez asserts should have been decided by a jury. Ramirez's contention is supported by our review of Texas law. *See City of Houston v. Lurie*, 224 S.W.2d 871, 876 (Tex. 1949); *City of Dallas v. Stewart*, 361 S.W.3d 562, 569 (Tex. 2012) ("Indeed, that was the case here: . . . the only relevant question for the jury was whether Stewart's home constituted a public nuisance."). Because this issue is "well within the comprehension of a jury," this factor favors Ramirez. *See Daniel*, 916 F.2d at 1064.

Second, "whether granting the motion would result in a disruption of the court's schedule or that of an adverse party." *Id.* Ramirez contends that this factor favors him because the court had scheduled the case for a jury trial two months in advance of the trial date. The City, in response, claims it was "blind-sided" by the proposed jury instructions when they were filed in February of 2025.

The City's argument that it was caught off-guard by the jury demand is baseless. Ramirez had filed numerous documents — at least 13 — with jury demand language in the caption or an even more conspicuous place. Both parties signed and filed a joint discovery and case management plan with a caption that included jury demand language and the body of which answered the question of "whether a jury demand has been made" in the affirmative, stating that a "jury demand was made prior to removal, and it was timely."[3] The City also had at least two months of notice that the case would be tried to a jury because the court, in February, scheduled the case as going to trial in front of a jury in April.

We have held that the district court's and the adverse party's schedules were not disrupted when the case had been scheduled for and was on the precipice of trial, but the district court issued an eleventh-hour order mandating a bench trial. *Cox v. C.H. Masland & Sons, Inc.*, 607 F.2d 138, 144 (5th Cir. 1979). Just as in *Cox*, any disruption to the court's schedule here was the result of the last-minute order, not the failure to make a timely demand for a jury. *See id.* As for the City, even if it was unaware of the majority of Ramirez's various attempts to request a jury, the City claims it was blindsided in *February*, two full months before the trial was to occur. We are not sympathetic. Even if we ignore the existence of prior statements that there was to be a jury trial, two months' notice gave ample time for the City to prepare for a jury trial. *Cf. Unum*, 658 F.2d at 303 (holding that party's jury demand filed shortly before the final docket call weighed against granting the motion). Because the City had sufficient notice that a jury trial had been requested — whether through the correct procedures or not — and scheduled, the City's schedule was not disrupted. This factor favors Ramirez.

Third, "the degree of prejudice to the adverse party." *Daniel*, 916 F.2d at 1064. Prejudice can occur when a party had "prepared its case to be tried to the bench" at the expense of jury trial preparation, especially when there is evidence that the non-moving party made choices that indicate

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[3] Despite this statement, there had in fact been no jury demand at the state court phase of the proceedings. Making a demand first in state court is not a requirement, leaving the issue in federal court as only whether the City knew a demand for a jury trial had been made after removal.

preparation for trial in front of the bench instead of a jury, such as focusing on "depositions and documentary evidence, rather than on live witnesses." *Unum*, 658 F.2d at 303. In its brief in opposition to the formal jury request that Ramirez filed on April 2, 2025, the City argued that it would be prejudiced by the court ordering a jury trial because the City had instead prepared only for a bench trial. The City makes this argument in its briefing on appeal as well. Ramirez essentially reiterates his arguments from the second *Daniel* factor, contending the City was on notice of the fact that the trial would be by jury.

If the City simply did not notice the various signs that Ramirez sought a jury trial—including the joint discovery and case management plan, signed by the City, that contained an acknowledgement that a jury had been requested—that is the product of its own inattention rather than Ramirez's lack of trying. Regardless, the City had two months' notice from the district court's scheduling the case for a jury trial to the trial itself. *See Cox*, 607 F.2d at 144. We must presume the City's counsel was attentive, with a vigilant eye to the court's schedule, and thus to the approaching scheduled jury trial. Like in *Daniel*, "any prejudice here would be to" Ramirez in depriving him of the ability to present his case to a jury, not the City. *See Daniel*, 916 F.2d at 1064. This factor, too, favors Ramirez.

Fourth, "the length of the delay in having requested a jury trial." *Id.* On the City's account of events, Ramirez did not follow proper procedure and waited until the last moment, almost a year and a half after filing, to attempt to cure that alleged failure. Ramirez, in response, asserts that there was no delay in requesting a jury trial whatsoever, since he had requested a jury trial five days after removal and reminded all involved of his request in the various other documents served on the City.

In evaluating this factor, we consider Ramirez's consistent filing of documents including jury request language. The Rule 39(b) motion was not a "delaying tactic brought on the eve of trial." *Id.* at 1065. The formal request was filed the week of the trial, but there were many assertions in court filings before that time. There was even a recognition in February 2024 in the joint discovery and case management plan that a timely jury trial demand had been made. Proposed jury instructions had been on file for months. If only the date of the Rule 39(b) motion is relevant under this factor, and again based on our pretermitting the sufficiency of the Certificate of Interested Parties, the factor would weigh in favor of the City. If that is the only relevant filing, we consider its weight insignificant because the City had substantial notice in other forms. The only late notice was the technical, formal notice based on a specific procedural rule.

Fifth, "the reason for the movant's tardiness in requesting a jury trial." *Daniel*, 916 F.2d at 1064. "Th[is] Court's statements indicating a favorable reception at the trial level to Rule 39(b) motions is tempered by the observation that such a motion is considered strongly against the moving party 'when no justification is offered in explanation of a lengthy delay.'" *Lewis*, 767 F.2d at 257 (quoting *United States v. Lochamy*, 724 F.2d 494, 499 (5th Cir. 1984)). Indeed, "[i]t is not an abuse of discretion by a [trial court] to deny a Rule 39(b) motion . . . when the failure to make a timely demand for a jury trial results from mere inadvertence on the part of the moving party." *Bush v. Allstate Ins. Co.*, 425 F.2d 393, 396 (5th Cir. 1970).

Ramirez asserts that the reason for the tardiness, assuming that a jury trial was never properly requested, was that he believed "his initial request for a jury . . . was sufficient to preserve his Seventh Amendment rights." The City responds that the real cause of the "extreme delay in raising the issue" was Ramirez's "lack of attention to detail in following the [r]ules."

Ramirez's justification for not having timely filed his jury demand was that he did not think to "assert a second jury demand within 14 days after removal because he . . . believed that his initial request for a jury . . . was sufficient to preserve his Seventh Amendment rights." Based on the record in this case, that is a compelling and sufficient reason. Ramirez not only indicated he was requesting a jury trial in his Certificate of Interested Parties, but he also indicated his demand for a jury in numerous filings throughout nearly a year and a half of litigation in the lead-up to the court's consideration of Ramirez's Rule 39(b) motion. Indeed, two months before the trial was set to take place, Ramirez submitted jury instructions to the district court. It was not until nearly two months later that the district court set a status conference to discuss the jury trial question. Sensing for the first time that the initial jury demand may have been defective in the eyes of the district court, Ramirez moved for a jury trial under Rule 39(b). The City, for its part, did not object to the seeming *status quo* that there was to be a jury trial until trial was nearly upon it. *See Pinemont*, 722 F.2d at 236 (explaining that the district court's "impression that th[e] case was to be heard by a jury" up "[u]ntil the pretrial conference" was evidence that there were not "strong and compelling reasons" for denying the Rule 39(b) motion (citation omitted)).

This is not a case where the failure to make a proper demand for a jury was due to "mere inadvertence" that justifies the denial of the motion. *See Bush*, 425 F.2d at 396. "[M]ere inadvertence" describes scenarios in which, for example, a party simply relies on the district court's scheduling a jury trial without having taken any action to demand a jury trial, although all claims for which a jury had been demanded had been dismissed. *Id.*, *Mesa Petroleum Co. v. Coniglio*, 629 F.2d 1022, 1028–29 (5th Cir. 1980). We have held the same when the failure to comply with Rule 38 was due to pure neglectful mistake or counsel's unfamiliarity with the rules. *See, e.g.*, *O'Malley v. U.S. Fid. & Guar. Co.*, 776 F.2d 494, 501 (5th Cir. 1985). By contrast, the reason for delay in this case was neither idleness nor a fitful relationship with the federal rules; indeed, there was certainly no lack of diligence in requesting a jury trial here.

Evading complete forfeiture of a jury right does not require perfect compliance. Solicitude for the Seventh Amendment requires more before the right is lost. *See Swofford*, 336 F.2d at 409. There is no tension between our accepting something less than perfect compliance with Rule 38(b) and our disapproval of "mere inadvertence" in keeping with its demands, as there is often room for fair dispute as to whether a party has in fact complied with Rule 38(b).

Ramirez's argument that his initial jury demand was sufficient is colorable—we decline to reach it here only out of concern for economy of explanation. Rule 38(b) does not require that a jury demand *must* take a specific form—it merely states that a jury demand "*may* be included in a pleading." FED. R. CIV. P. 38(b) (emphasis added). Given the permissiveness of Rule 38(b) and Ramirez's compliance with the other requirements in Rules 38(b) and 81(c)(3), there was good cause for Ramirez to believe his attempted jury demand passed muster, and for him to believe the City accepted his demand as sufficient. Ramirez's diligent attempted compliance with the jury trial rules is certainly beyond the "mere inadvertence" and incompetence that we have found to be a proper ground for denying a Rule 39(b) motion. *See Bush*, 425 F.2d at 396.

Accordingly, this factor favors Ramirez.

The *Daniel* factors' one-sidedness in this case demonstrates that the district court lacked the requisite "strong and compelling reasons" to deny the Rule 39(b) motion. *Swofford*, 336 F.2d at 409. As a result, the district court abused its discretion.

It was error to conduct a bench trial. The district court also made legal rulings after the bench trial that would apply, we presume, to the result of a jury trial. We therefore address the arguments about those rulings.

II. Damages

The district court agreed with Ramirez that the City violated his procedural due process rights, but it held that it could only grant nominal damages because the property was a "public nuisance," disqualifying Ramirez from just compensation as a taking. Neither party contests that a takings claim is unavailable for loss of property that is a nuisance, and we agree. *See Stewart*, 361 S.W.3d at 569 & n.11. The dispute about damages, instead, centers on whether takings claims and procedural due process claims involve distinct rights and thus are separately actionable, allowing a plaintiff to seek the full measure of damages under one claim regardless of the other's viability.

The governing Supreme Court case on the issue is *Carey v. Piphus*, 435 U.S. 247, 266–67 (1978). In *Carey*, two students had been suspended using procedures that violated due process. *Id.* The Court agreed that, if the suspensions were ultimately justified on the merits despite the improper procedures used to arrive at that outcome, the plaintiffs were not "entitled to recover damages to compensate them for injuries caused by the" suspension. *Id.* at 260. In reaching this conclusion, the Court reasoned that "the injury caused by a justified deprivation, including distress [from the suspension], is not properly compensable under § 1983." *Id.* at 263. To receive more than nominal damages, the plaintiffs were obligated to show that they "suffer[ed] any other actual injury" than that which was the result of justified government conduct. *Id.* at 266. The compensable harm the students had suffered, if indeed the suspensions were justified, was that which flowed from the defective procedures; the remedy for such a procedural injury is compensatory damages that are provable as having been caused by defective procedures or, if none are provable, nominal damages. *Id.* at 263–64, 266–67. The Court explained that the "common-law tort rules of damages" govern in Section 1983 suits, and that when there is no common law rule readily applicable, it would "adapt[]" them "to provide fair compensation for injuries caused by the deprivation of a constitutional right." *Id.* at 258–59, 266.

Thus, the question a court must answer when deciding damages in a procedural due process case is whether the "procedural due process [violation] could . . . properly be viewed as the cause" of the harm. *Id.* at 260. Indeed, only damages "attributable to" and caused by the due process violation itself are compensable. *Id.* at 260, 263 ("[W]here a deprivation is justified but procedures are deficient, whatever distress a person feels *may* be attributable to the justified deprivation rather than to deficiencies in procedure." (emphasis added)). Our longstanding precedent buttresses this approach. *See, e.g.*, *Hill v. City of Pontotoc*, 993 F.2d 422, 425 (5th Cir. 1993). "To recover" more than nominal damages "for a violation of procedural due process[,] the plaintiff must present evidence that she has incurred actual compensatory damages flowing from the loss of procedural rights." *Wheeler v. Mental Health & Mental Retardation Auth. of Harris Cnty.*, 752 F.2d 1063, 1070 (5th Cir. 1985) (first citing *Conley v. Bd. of Trs. of Grenada Cnty. Hosp.*, 707 F.2d 175, 182 (5th Cir. 1983); and then citing *Wilson v. Taylor*, 658 F.2d 1021, 1023 (5th Cir. Unit B Oct. 1981)).

Here, the destruction of Ramirez's personal property that was inside the house when it was demolished was arguably a harm that flowed from the violation of his procedural due process rights (a question for a jury on remand). With proper notice, part of the process which he was due, Ramirez perhaps could have saved his personal property, including appliances and other materials for repairs that Ramirez testified at trial as being valued at about $15,000. *See* TEX. CITY, TEX., CODE OF ORDINANCES tit.15, §§ 150.034(E), 150.035(A)–(I), (M). However, even if the City had followed the proper *emergency* procedures, it still would have been required to demolish the structure within several days, due to the City's time-limited notice and concurrence procedures. *Id.* § 150.038(A)(3), (A)(3)(c). The damages question that the district court and the jury must answer on remand, if the jury finds that Ramirez's procedural due process rights were violated, is whether Ramirez's claimed injuries flow from the City's failure to comply with proper procedures.

We do not decide today whether Ramirez can recover compensatory damages if the jury finds that the house was a nuisance and thus that no takings damages are permitted. That issue, though, is one the district court must confront if such a finding is properly made.

We VACATE the judgment and REMAND for proceedings consistent with this opinion.