

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 15-014

RESPONDENT: Bexar County Courts Administrator

DATE: October 13, 2015

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge Dean Rucker; Judge Kelly G. Moore

Petitioner requested from the Bexar County Courts Administrator information regarding the “continuing education criteria/requirements¹” for the Bexar County family court judges. Regarding two judges specifically named in the request, Petitioner asked for their continuing education information pertaining to “child custody, shared parenting and the subject of Parental Alienation.” Respondent informed Petitioner that it did not have any records that were responsive to his request and suggested that Petitioner contact the Texas Center for the Judiciary (TCJ) for the information. Petitioner then filed this appeal.

Rule 12 of the Rules of Judicial Administration does not require that a judicial agency or court create records in order to respond to a request for records. Rule 12.4(a)(1). If Respondent does not have records that are responsive to Petitioner’s request, it is not required to create them.

Rule 12.6(f) requires a judicial agency who receives a request for records that are not in its custody but in the custody of a records custodian known to the judicial agency, to refer the request to the appropriate records custodian and notify the requestor. Respondent acknowledges that it suggested to Petitioner that he contact the TCJ rather than directly refer the request to the TCJ as required by Rule 12.6(f). However, TCJ is not a “judicial agency” that is subject to Rule 12; therefore, a referral to TCJ was not required under Rule 12.6(f) as that entity is not required to comply with the provisions of Rule 12. *See* Rule 12 Decision No. 05-001.

Based on the response submitted by Respondent in this appeal and Respondent’s response to the request at issue in this appeal, it does not appear that Respondent contacted the family court judges in Bexar County to ascertain whether they had any records responsive to Petitioner’s request. If Respondent has not already done so, we ask that it refer Petitioner’s request to the family court judges of Bexar County for them to determine if they have any records that are responsive to the request. If Petitioner did send the request to the judges or consulted with them in preparing its response to Petitioner’s request for information, then no other action is required by Respondent regarding this appeal.

¹ We direct Petitioner to the Rules of Judicial Education which provide the judicial education requirements for Texas appellate, district and county court judges, justices of the peace, municipal court judges, and other judicial officers. The Rules are available at <http://www.txcourts.gov/rules-forms/rules-standards.aspx>.

In summary, Respondent does not have any records responsive to this request and it is not required to create them under Rule 12.4(a)(1). Additionally, Rule 12.6(f) does not require Respondent to refer a Rule 12 request to an entity that is not subject to Rule 12. Accordingly, the appeal is denied. We are confident that if Respondent has not already done so, it will refer Petitioner's request to the family court judges of Bexar County for them to determine if they have any records that are responsive to the request. We give Petitioner leave to refile his appeal if the judges deny his request for a reason other than that they do not have records responsive to Petitioner's request.