

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 21-014

**RESPONDENT:** Harris County Civil County Court at Law No. 2

**DATE:** August 30, 2021

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge Ray Wheless; Judge Missy Medary; Judge David L. Evans; Judge Alfonso Charles

Petitioner requested from Respondent documents included in a specific case file or docket that were filed or submitted by someone other than Petitioner. Petitioner was advised by Respondent's staff that all correspondence regarding his case be directed to the Harris County Clerk's Office. Petitioner then filed this appeal.

The Office of Court Administration (OCA) reviewed the petition and concluded that the request was for case records, not judicial records subject to Rule 12. Following the procedures established in the Directive Regarding Petitions for Access to Case Records (issued October 13, 2017), OCA forwarded the appeal to the standing special committee appointed to review appeals that appear to involve case records. Petitioner objected to one of the requested records being considered a case record because it had not been properly filed in the case and requested that any responsive documents not filed in accordance with the Texas Rules of Civil Procedure be included in his appeal. Upon receipt of Petitioner's objection, Petitioner's appeal was referred to this special committee for review.

Petitioner argues that one of the records he seeks cannot be a case record because it is a "Post-It-Note" that was not properly filed in the case. In support of his argument Petitioner cites certain rules of court administration and procedure that set out the requirements for documents to be properly filed in a case and define the term case record as a record that is filed in a case.

The threshold issue in a Rule 12 appeal is whether the requested records are "judicial records," which are defined by Rule 12.2(d) as follows:

"Judicial record means a record made or maintained by or for a court or judicial agency in its regular course of business *but not pertaining to its adjudicative function*, regardless of whether that function relates to a specific case. A record of any nature *created, produced, or filed* in connection with any matter that is or has been before a court is not a judicial record." (Emphasis added.)

A record that pertains to a court's adjudicative function is not subject to Rule 12. A record does not have to be filed in a case to pertain to a court's adjudicative function. Any record that is created or produced in connection with any matter that is or has been before a court pertains to a court's adjudicative function.

Petitioner requested documents that had been included in a specific case file. Additionally, Petitioner stated that the "Post-It-Note" he requested was filed in a case and read into the record. Therefore, the records at issue in this appeal pertain to the court's adjudicative

function and they are not judicial records that are subject to Rule 12. Accordingly, we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.