

Before the Presiding Judges of the Administrative Judicial Regions
Per Curiam Rule 12 Decision

APPEAL NO.: 23-014

RESPONDENT: Presiding Judge, 166th Civil District Court, Bexar County

DATE: November 29, 2023

SPECIAL COMMITTEE: Judge Stephen Ables, Chair; Judge David Evans; Judge Ray Wheless; Judge Ben Woodward; Judge Missy Medary

Petitioner requested from Respondent the following:

- “All emails or other communications which were sent or received by [Respondent] relating to [a certain] case, or to me personally, including on [Respondent’s] personal cellphone. Please search on [certain names], Colorado, or ‘csc’ between the dates of March 5th and August 4th, 2023[;]” and
- “The application for judgeship, resume, background investigation, evaluation of character and fitness, and any biographical information within the possession, custody, or control of the court relating to [Respondent.]”

Similar to the appeal at issue in Rule 12 Decision No. 23-012, General Administrative Counsel for the Bexar County Civil District Courts (“General Counsel”) coordinated Respondent’s replies to Petitioner’s request, releasing and withholding certain documents. And similar to the appeal in Rule 12 Decision No. 23-012, Petitioner submitted a Rule 12 appeal challenging (1) Respondent’s representation by General Counsel in coordinating its Rule 12 replies, (2) the withholding of certain texts and emails, and (3) General Counsel’s failure to produce a privilege log. General Counsel submitted materials withheld under the lawyer-client privilege for our *in camera* review.

In prior Rule 12 decisions, where the appeal in question is part of a series of similar appeals, we have concluded that the issues raised and settled in one appeal can be dispositive for those raised in later series appeals. *See, e.g.*, Rule 12 Dec. Nos. 19-007, 19-020, 19-021, 19-023, 19-028, 19-029. The records requests and the Petitioner’s appeal at issue here are substantially similar to those previously analyzed by the special committee in Rule 12 Decision No. 23-012. Consistent with the special committee’s decision in Rule 12 Decision No. 23-012, then, the appeal points raised by Petitioner regarding Respondent’s use of counsel and the lack of a privilege log are denied. And consistent with Rule 12 Decision No. 23-012, for the withheld search-term responsive emails and texts we conclude that some of the records are related to a case before a court and not subject to Rule 12 and that the remainder are lawyer-client communications privileged under Rule 503 of the Texas Rules of Evidence. Rule 12 does not apply to records that are subject to a rule of evidence. Rule 12.3(a)(1)(c). *See also* Rule 12 Decs. Nos. 08-006, 22-001, 22-007, and 23-012.

Where Rule 12 does not apply to a record, the special committee is without authority to grant a petition or sustain denial of access to the record.

Accordingly, the petition is dismissed.