

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 15-012

RESPONDENT: Travis County Criminal Courts Administration

DATE: October 26, 2015

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge Dean Rucker; Judge David L. Evans

Petitioner requested from Respondent “copies of vouchers approved by the Capital Area Public Defender Service, processed through the Travis County Criminal Courts Administration, and paid by the Travis County Auditor for the payment of attorney’s fees in excess of the flat fee rate established in the Travis County Indigent Defense Plan in 2015.” Respondent denied her request claiming that the records were exempt from disclosure under Rule 12.5(k) of the Rules of Judicial Administration. Petitioner then filed this appeal.

A “judicial record” is defined by Rule 12.2(d) as 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.)

In Rule 12 Decision No. 15-006, the special committee decided that vouchers submitted for payment by court appointed attorneys are not subject to Rule 12 because they are not “judicial records” as defined by Rule 12.2(d). The records at issue in this appeal are the same type of records discussed by the special committee in Rule 12 Decision No. 15-006. Accordingly, we conclude that they are not “judicial records” that are subject to Rule 12.¹

Because the records at issue are not judicial records under Rule 12, we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.

¹ We note, however, that case records or court records which are not “judicial records” within the meaning of Rule 12 may be open pursuant to other law such as the common-law right to public access. *See* Rule 12 Decisions 00-001 and 00-003. We also note that the primary significance of a decision finding that a record is not subject to Rule 12 is that the Rule 12 procedures for responding to requests and appealing the denial of requests do not apply. Neither the fact that a record is not subject to Rule 12 nor a decision making this determination should be used as a basis for withholding records.