

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 16-004

RESPONDENT: Court of Criminal Appeals Education Committee

DATE: March 16, 2016

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 records related to the judicial education requirements of some of the district court judges in Bexar County. The Bexar County Courts Administrator informed Petitioner that his office did not have records that were responsive to Petitioner's request and Petitioner appealed. Because the requested records did not exist, the special committee denied the appeal pursuant to Rule 12.4(a)(1). The committee also requested the Bexar County Courts Administrator to contact the judges whose records had been requested to determine if they maintained the requested records and to forward the request to the Court of Criminal Appeals Education Committee (Respondent), a possible custodian of the requested records. *See* Rule 12 Decisions No. 15-014 and 15-014s. The Bexar County Courts Administrator forwarded the request to Respondent but Petitioner was never contacted by Respondent. Petitioner then filed this appeal.

In its response to this appeal, Respondent acknowledges that it received a letter from the Bexar County Courts Administrator regarding Petitioner's request, but states that it did not consider the letter a Rule 12 request.¹ Respondent expected to receive a separate request from Petitioner once Petitioner had been given Respondent's contact information.

Respondent also informs us that it does not have any records that are responsive to Petitioner's request. A judicial entity or officer is not required to create records that do not exist in response to a Rule 12 request. *See* Rule 12.4(a)(1). Accordingly, the appeal is denied.

¹Rule 12.6(f) requires the recipient of a request for records not in his or her custody to promptly attempt to ascertain who the custodian of the records is. If the recipient can ascertain who the custodian is, the recipient must refer the request to that person and notify the requestor. A judicial entity or officer that receives such a referral from another judicial entity or officer should proceed as if the request had been originally submitted to it under Rule 12.