

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 16-006

RESPONDENT: Judge Chris Oldner, 416th Judicial District Court
Judge John R. Roach, Jr., 296th District Court

DATE: April 25, 2016

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Billy Ray Stubblefield;
Judge David Peeples; Judge Dean Rucker; Judge David L. Evans

Petitioner requested from Respondents records created during specific time periods ranging from January 1, 2015 through October 6, 2015. The following is a summary of the four categories of records Petitioner requested:

- 1) documents and communications by, between, to, from (including copies and blind copies) Judge Scott Becker and the individuals appointed to serve as attorneys pro tem in the criminal actions filed against Attorney General Ken Paxton;
- 2) documents and communications by, between, to, from (including copies and blind copies) Judge Scott Becker and other recipients regarding Attorney General Paxton and the cases involving him;
- 3) documents and communications by, between, to, from (including copies and blind copies) Respondents and others relating to the position of Attorney Pro Tem, the persons appointed to serve as attorneys pro tem in the General Paxton case, General Paxton and another individual; and
- 4) documents and communications by, between, to, from (including copies and blind copies) the Collin County District Clerk or her staff, members of the Commissioners' Court, Respondents and others relating to the position of Attorney Pro Tem, the persons appointed to serve as attorney pro tem in the General Paxton matter, and General Paxton.

Respondents denied Petitioner's request claiming the requested records are exempt from disclosure under Rules 12.5(a), Judicial Work Product and Drafts, and 12.5(f), Internal Deliberations on Court of Judicial Administration Matters, and that they are not "judicial records" under Rule 12. Petitioner then filed this appeal. Respondents provided the responsive documents for the special committee's *in camera* review.

A "judicial record" under Rule 12 is one that is "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." *See* Rule 12.2(d). We have reviewed the submitted documents and conclude that they were

made and maintained by courts in their regular course of business and that they do not pertain to the courts' adjudicative functions. Thus, they are "judicial records" under Rule 12.

We also conclude from our review that one of the submitted documents is not a judicial work product or draft and does not pertain to internal deliberations on court or judicial administration matters so it is not exempt from disclosure under Rule 12.5(a) or (f). We grant the petition regarding this document and it should be released.

The remainder of the documents submitted for our review are either exempt from disclosure under Rule 12.5(f) or are not responsive to the request. These documents do not need to be released.

Accordingly, the Petition is denied in part and granted in part.