

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 16-008

RESPONDENT: Judge Judith Wells, 325th District Court
Judge William Harris, 233rd District Court
Judge Jesus Nevarez, 231st District Court
Judge Nancy Berger, 322nd District Court
Judge Jerome Hennigan, 325th District Court

DATE: June 1, 2016

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Olen Underwood;
Billy Ray Stubblefield; Judge David Peeples; Judge Kelly G. Moore

Petitioner requested the following information from Respondents:

- 1) Tarrant County's Family Court Appointment Plan "a.k.a. appointment wheel";
- 2) list of all Tarrant County family law cases with a court appointment that utilized the "wheel" since 9/1/2015;
- 3) list of all appointments qualified by the Family Court Appointment Plan, including the attorney's name and the type of appointment;
- 4) communications related to the court reporter for the 325th District Court "managing the wheel on behalf of all the courts";
- 5) any additional compensation and benefits provided to the court reporter for the additional responsibility of managing the wheel and all court appointment applications and vacation schedules;
- 6) posting location of current appointment lists as required by Sec. 37.005 of the Texas Government Code; and
- 7) all titles and position of each type of appointment on the wheel.

Petitioner also asked Respondents to "identify and explain all programs, court appointments and services incarcerated plaintiffs/defendants receive in family court" and asked whether these court appointments are handled through the family court appointment wheel.

At the time Petitioner filed this appeal one of the Respondents had replied and provided information responsive to numbers 2 and 3 from the list above. After filing this Petition, another Respondent replied and provided the records responsive to numbers 1, 2, 3 and 7, and provided a cost estimate for the records responsive to number 4. This Respondent also informed Petitioner that there were no records responsive to number 5. Respondent also replied to Petitioner's inquiry regarding number 6.

From the information submitted by Petitioner to this committee, it appears that Respondents have replied to all of the items requested by Petitioner except for Petitioner's request that they "identify and explain all programs, court appointments and services incarcerated plaintiffs/defendants receive in family court" and Petitioner's question about whether those appointments are handled through the family court appointment wheel.

The threshold issue in a Rule 12 appeal is whether the requested records are "judicial records" subject to Rule 12. A "judicial record" is 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." *See* Rule 12.2(d).

We note that the only "requests" that have not been answered by Respondents are inquiries about the existence and explanation of court programs; they are not requests for information that are made or maintained by or for a court. Accordingly, the requested information is not a "judicial record," as that term is defined by Rule 12.2(d), and it is not subject to Rule 12.

In summary, Respondents have complied with Petitioner's requests for information that is subject to Rule 12. The two questions submitted to Respondents that do not appear to have been answered are not requests for judicial records that are subject to Rule 12 and, therefore, we are without authority to issue a decision regarding those requests.