

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 16-009

RESPONDENT: Boerne Municipal Court; Bogota Municipal Court; Bridge City Municipal Court; Cibolo Mountain Municipal Court

DATE: June 6, 2016

SPECIAL COMMITTEE: Judge Dean Rucker, Chairman; Judge David Peoples; Judge Missy Medary; Judge David L. Evans; Judge Kelly G. Moore

Petitioner submitted written requests to Respondents for lists of persons who have requested or have been ordered to take a driver's safety class pursuant to Art. 45.01 of the Code of Criminal Procedure. Respondents denied Petitioner's request and informed Petitioner that the judiciary is exempt from the requirements of the Public Information Act and that the requested information is exempt from disclosure under Rules 12.2 and 12.3 of the Rules of Judicial Administration and therefore, by definition, the requested information is not a "judicial record." Petitioner then filed this appeal.

Petitioner cites Rule 12 Decision No 11-011 which decided that records like those at issue in this appeal are case records that are not subject to Rule 12. Petitioner asserts that because the requested records are "case records" they are subject to public review under the common-law, statutes, and court rules regarding public access.

We have previously decided that the types of records at issue in this appeal are not judicial record subject to Rule 12 because they are case records and Rule 12 does not apply to records that pertain to the adjudicative function of the courts. *See* Rule 12.2(d) and Rule 12 Decision 11-011. However, as was the case in Rule 12 Decision No. 11-011, because the records at issue in this appeal are not subject to Rule 12, we are without authority to issue a decision regarding Petitioner's access to the requested records.

Though we are without authority to issue a decision in this matter, we note, as we have in other appeals dealing with case records, that case records that are not "judicial records" subject to Rule 12 may be open pursuant to other law such as the common-law right to public access. *See* Rule 12 Decisions 00-001, 00-003, and 15-003. The fact that a record is not subject to Rule 12 does not necessarily mean that the public should not have access to the record. It only means 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.

Because the records at issue in this appeal are not subject to Rule 12, we can neither grant the petition in whole or in part nor sustain the denial of access to the request records.