

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 16-013

RESPONDENT: Justices of the Peace, El Paso County

DATE: October 25, 2016

SPECIAL COMMITTEE: Judge Dean Rucker, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Missy Medary

Petitioner requested from Respondents bulk data regarding eviction cases filed in the justice of the peace courts in El Paso County. Petitioner requested the name and address of defendants/tenants, case (judgment) dates, and the outcome of the cases. Petitioner also requested any other information that could be provided such as the names of plaintiffs, money judgment amounts, and whether parties were represented by counsel. Petitioner received responses from three of the Respondents; however, they had redacted address information pursuant to Rule 12.5(d). Petitioner appeals the denial of access to the requested address information arguing that the information is needed for research being conducted by Petitioner.

A “judicial record” subject to 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.*” Rule 12.2(d). (Emphasis added.)

The records requested by Petitioner were created and filed in connection with the eviction cases adjudicated by Respondents. Therefore, they are not “judicial records” as defined by Rule 12.2(d) and they are not subject to Rule 12. *See* Rule 12 Decisions Nos. 03-005, 11-004 and 15-006.

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

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.