

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 16-019; 16-020

**RESPONDENT:** 309<sup>th</sup> Judicial District Court

**DATE:** January 23, 2017

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge Billy Ray Stubblefield; Judge David Evans; Judge Kelly G. Moore

Petitioner requested from Respondent's court reporter a complete digital file of the proceedings in two cases heard by Respondent. The court reporter informed Petitioner that she could provide a certified transcript in her official capacity and provided cost information. Petitioner requested from Respondent's court coordinator records regarding two specific cases, two motions to recuse filed on December 1, 2014, and July 29, 2016, and a supplemental order in a specific case. Petitioner also provided a list of dates to the court coordinator and asked her to note whether the judge of the 309<sup>th</sup> Judicial District Court "was or was not present" on those dates.

Petitioner has filed two petitions for review.<sup>1</sup> One asserts that the court reporter did not formally deny Petitioner's request or refer the request to the appropriate person as required by Rule 12 of the Rules of Judicial Administration and the second petition asserts that the court coordinator failed to reply to her request. Petitioner requested that the appeal be expedited and her request has been granted.

We first address the request submitted to the court coordinator asking whether the judge "was or was not present" on the dates listed in Petitioner's request. This is an inquiry of the court coordinator, but it is not a request for records. Accordingly, we are without authority to address Respondent's failure to respond to Petitioner's inquiry regarding the listed dates.

We next address the denial of access to the records requested by Petitioner. Rule 12.2(d) defines a "judicial record" subject to Rule 12 as 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. *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.*" (Emphasis added.)

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<sup>1</sup> Because the requested records at issue in both petitions are records of the 309<sup>th</sup> Judicial District Court, we have addressed both petitions for review in one decision.

The records requested by Petitioner are records that were created, produced and filed in connection with cases that are or have been before Respondent. Therefore, they are not “judicial records” as defined by Rule 12.2(d) and they are not subject to Rule 12.

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.