

Before the Presiding Judges of the Administrative Judicial Regions
Per Curiam Rule 12 Decision

APPEAL NO.: 16-021

RESPONDENT: 312th Judicial District Court; Administrative Office of the Harris County Courts; Second Administrative Judicial Region

DATE: January 26, 2017

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

Petitioner appeals the denial of the requests for records she submitted to the court coordinator and the staff attorney for the 312th District Court, to the administrator of the Harris County District Courts, and to the Second Administrative Judicial Region.

Petitioner requested the following from the administrator of the Harris County District Courts and the court coordinator and staff attorney for the 312th District Court: records and documents, including emails, faxes, confirmations or other communications, regarding two specific cases, a motion to recuse filed on December 1, 2014, a motion to recuse filed on July 29, 2016, and a supplemental order in a specific case. Petitioner requested from the Second Administrative Judicial Region email received by the Region containing a certain motion to recuse. The Region responded that they did not have any records responsive to the request other than what was provided to Petitioner. The other Respondents replied that the requested information was either available from the district clerk's office or was exempt. Petitioner has appealed the denial of access to the requested records. Petitioner has asked that the appeal be expedited and the request has been granted.

A "judicial record" is defined by Rule 12.2(d) 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.)

All of the records requested by Petitioner are records that were created, produced or filed in connection with cases that are or have been before one or more district courts in Harris County. 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.