

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 17-002

RESPONDENT: Justice of the Peace, Precinct 1, Travis County

DATE: May 24, 2017

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge David Evans; Judge Kelly G. Moore

Petitioner requested the following from Respondent: 1) the names of the justices of the peace in Travis County Precinct 1 that served during a specific time period, 2) the name and address of the “bonding agency insuring” those justices of the peace, 3) the names of the clerks of the court and their deputies who served during a certain time period, 4) the name and address of the “bonding agency insuring” the clerks and their deputies, 5) a list of cases from 2014 to present that involved alleged toll road violations, 6) the process by which the defendants in those cases were notified, 7) the type of warrants issued in those cases, and 8) the outcome of the cases. Respondent denied Petitioner’s request for items 2 through 4 maintaining that they were questions, not requests for records, and therefore a response was not necessary.¹ Respondent denied the request for items 5 through 8 maintaining that they are case records that are not subject to Rule 12. Respondent also stated that complying with the request would put an undue burden on Respondent because the requested information is not maintained in the requested format and would require a manual review of each file. Petitioner then filed this appeal.

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.)

Items 5 through 8 are requests for records related to cases that have been before the court. 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. 15-017, 11-004, and 03-004.

Respondent maintains that items 2 and 4 are questions, not requests for records, and that the “judiciary is not required to answer questions, create information or conduct research in responding to requests.” There are no prior Rule 12 Decisions with similar facts to assist us in analyzing this position. In these instances, Open Records Decisions and Open Records Letter Rulings issued by the Attorney General of Texas (AG) can be informative. We found two Open Records Letter Rulings (ORL) on point. In the first, ORL 06-1436 (February 13, 2006), the requestor had asked for the names of all city employees, their titles, salary, addresses and telephone numbers and the names of contractors who provided legal services to the city. In the second, ORL 99-1252 (May 7, 1999), the request was for the names and phone numbers of companies and city officials working on a pipeline

¹ Respondent provided Petitioner the information requested in item 1.

project. In both cases the cities argued that the requests were questions, not requests for records, and that they were not required to research, create, or compile information to respond to questions. In reaching its decision regarding the pertinent part of the request, the AG in ORL 06-1436 stated that “the city must make a good-faith effort to relate the request to information that it holds or to which it has access.” ORL 06-1436 at page 3. The AG continued with the following explanation:

“In other words, if you are able to identify documents in the city's possession from which the requestor could ascertain the answers that he is seeking, you must provide the requestor with those documents. For example, the information the requestor is seeking about the name, title, salary, addresses, and phone numbers may be found in a human resources payroll document.² While the act does not require you to compile the requested information from these documents, you should advise the requestor that he can obtain the information he is seeking from these documents.”

We agree with the reasoning in both open records letter rulings. Following their guidance will ensure access to judicial records even when a requestor is unaware of the types of records that contain the requested information or how the records are maintained.

In the request at issue in this appeal, Petitioner asked for the name and address of the “bonding agency insuring” certain justices of the peace and court clerks. Though a judicial officer does not have to *answer* questions, because the requested information is available in a record that can be provided to Petitioner, i.e. a copy of the bond, we conclude that Respondent should have advised Petitioner that the requested information is available in this record so that Petitioner could have requested it.³ This conclusion is consistent with the requirement that Rule 12 be liberally construed to achieve its purpose and will ensure that the purpose of Rule 12, “to provide public access to information in the judiciary consistent with the mandates of the Texas Constitution that the public interests are best served by open courts...,” is satisfied.

Lastly, we consider item number 3. We agree with Respondent that this request is also a question rather than a request for records. Therefore, consistent with our conclusion above, if Respondent has a record that contains this information, Respondent should advise Petitioner. Otherwise, no response is necessary.

In summary, the requests for items 5 through 8 are for case records not judicial records under Rule 12, and we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records. Though items 2, 3, and 4 are questions, if the requested information is available in a record that can be provided to Petitioner, Respondent should advise Petitioner so that Petitioner can request the appropriate record.

² In ORL 99-1252, the AG suggested that the requested information could be obtained from contracts with the companies.

³ We note, however, that clerks of the justice courts are not required to post a bond so it is unlikely that a record exists that would be responsive to item number 4.