

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 17-007

RESPONDENT: Third Court of Appeals

DATE: August 2, 2017

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

Petitioner requested from Respondent “copies of all clerks office communications, including but not limited to communications had with staff attorneys.” Respondent informed Petitioner that records related to internal deliberations on court or judicial administration matters are exempt from disclosure under Rule 12.5 and denied the request. Petitioner then filed this appeal.

Since filing his petition, Petitioner has sent additional correspondence to Respondent and this committee. One of his communications clarified that his original request was for information related to the review of his filings in a case and Respondent’s failure to accept the filings within 48 hours. He also expanded his original request to include copies of communications between Respondent to attorneys representing a named client in a specific case. The other communication repeated Petitioner’s original request and asked for copies of the prior requests Petitioner had submitted to Respondent and copies of “receipt/invoices of all purchases” made by Respondent’s clerk on behalf of the court or its employees. Respondent denied this request asserting the same exemption it had raised originally and maintaining that the other requests were overly broad and unduly burdensome.

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.)

Except for the records discussed in the last paragraph of this decision, the records requested by Petitioner were created in connection with a case pending with Respondent. Therefore, they are not “judicial records” as defined by Rule 12.2(d), they are not subject to Rule 12, and this committee is without authority to issue a decision regarding denial of access to these records. *See* Rule 12 Decision No. 00-001.

We next address Petitioner’s request for copies of receipts, invoices and Petitioner’s submitted requests. These items are judicial records and they are subject to Rule 12. The request for copies of receipts or invoices regarding all purchases made by Respondent’s clerk is overly broad and fails to identify the records Petitioner is seeking. Accordingly, Respondent’s denial of access to these records is sustained. Copies of the requests Petitioner previously submitted to Respondent are not exempt from disclosure nor is the request for these records overly broad. Accordingly, the portion of the petition regarding the request for these records is granted.