

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

APPEAL NO.: 19-005

RESPONDENT: City of Mission Municipal Court

DATE: August 6, 2019

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Ray Wheless; Judge Kelly G. Moore; Judge Alfonso Charles; Judge Susan Brown

Petitioner requested from Respondent all personnel records of a specific associate municipal court judge including, in part, performance evaluations, personnel action forms, job applications, agreements between the city and the judge, high school diploma, university transcripts, and social security card. He also requested any records showing “accumulated personal time, sick time, vacation time, and other compensatory time owed” to the judge. Respondent denied the request asserting the requested records are exempt under Rule 12.5(c). Petitioner then filed this appeal. Respondent replied to the petition but did not provide any records for this committee’s review.

Respondent asserts the information is exempt from disclosure under Rule 12.5(c) which exempts “any personnel record that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.” Prior Rule 12 decisions have concluded that many records found in a judge’s or employee’s personnel file are not exempt from disclosure under Rule 12.5(c). Some examples are: Rule 12 Decision No. 18-006 (time sheets and documentation reflecting the hours worked by an employee are not exempt from disclosure under Rule 12.5(c)); Rule 12 Decision No. 11-017 (release of basic leave information does not constitute an invasion of personal privacy); Rule 12 Decision No. 10-008 (release of performance evaluations does not necessarily constitute a clearly unwarranted invasion of personal privacy); and Rule 12 Decision No. 03-002 (complaints filed against a municipal court judge that did not result in an investigation are not exempt under Rule 12.5(c) or (k)). Conversely, some Rule 12 decisions have concluded that some of the information in a personnel file may be exempt from disclosure. Examples of those are: Rule 12 Decision No. 03-002S (information regarding a person’s home address, home or personal telephone number, social security number, or family members is exempt under Rule 12.5(d)); Rule 12 Decision No. 09-001 (health information contained in a leave form may be exempt from disclosure under Rule 12.5(c)); and Rule 12 Decision No. 00-005 (documents related to the investigation of a person’s character or conduct are exempt from disclosure under Rule 12.5(k)).

To the extent the records responsive to Petitioner’s request exist, any information contained in them described in the paragraph above as having been identified as exempt in a prior Rule 12 decision may be withheld. The petition is granted as to the remaining responsive records. However, because we have reached this decision without the benefit of reviewing the responsive records, we give Respondent leave to submit any records for our *in camera* review that Respondent believes may contain information that is exempt from disclosure. If Respondent chooses not to submit the responsive records for our review, they should be released to Petitioner.