

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

**APPEAL NO.:** 19-021

**RESPONDENT:** 413th District Court, Johnson County

**DATE:** January 28, 2020

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge Ray Wheless, Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Susan Brown

On October 18, 2019, Petitioners each made a Rule 12 request for records related to their “good cause” removal from the Johnson County felony indigent defense appointment list and misdemeanor indigent defense appointment list, as well as related attorney appointment data.<sup>1</sup> Respondent replied on October 21, 2019, that it had no documents responsive to the requests and was unaware of the existence of any responsive documents. Respondent then sent a supplemental reply to Petitioners on October 29, 2019 indicating it was providing them with certain documents in response to their requests. Respondent noted it was not making any pronouncements as to whether the provided documents demonstrated “good cause” for removal of Petitioners from the appointment lists because doing so would “invade the parameters” of the exemptions provided by Rule 12.5(a) (judicial work product) and Rule 12.5(f) (internal deliberations). Respondent separately asserted that documents or records that fell under Rule 12.5(a) and Rule 12.5(f) were exempt from disclosure. As to the attorney appointment data sought by Petitioners, Respondent replied that it had no documents responsive to the requests but offered that the local county courts at law might have the data Petitioners sought. Petitioners then filed a Rule 12 appeal on November 26, 2019 seeking expedited review.<sup>2</sup> The special committee will not address Petitioners’ appeals requests that extend beyond the scope of the records requested from the Respondent.<sup>3</sup>

Petitioners have filed a series of appeals that involve requests for records from Johnson

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<sup>1</sup> In Petitioners’ October 18 letters, three of Petitioners’ five requests sought documents that might show any “good cause” reasons to substantiate the removal of Petitioners from the felony and misdemeanor indigent defense appointment lists at various dates. The two remaining requests related to the number of indigent felony defendants and indigent misdemeanor defendants who requested a Spanish-speaking court-appointed attorney.

<sup>2</sup> On November 29, 2019, Petitioners submitted another Rule 12 appeal related to Respondent’s answers regarding the Petitioners’ “good cause” removal from the Johnson County misdemeanor indigent defense appointment list. We have consolidated that appeal into this decision, as records at issue in Petitioners’ November 29 appeal are also at the center of Petitioners’ November 26 appeal.

<sup>3</sup> The special committee will not comment on the nature of the documents submitted to it that extend beyond the records sought by Petitioners in their Rule 12 records requests. Rule 12 exists to provide public access to information in the judiciary, and does not require the special committee to opine on the validity of assertions posed by Petitioners. *See* Rule 12 Decision No. 19-016.

County judicial officers. *See* Rule 12 Decision Nos. 19-019 and 19-020. In Rule 12 Decision No. 19-019, the special committee reviewed a variety of records requests made by Petitioners to a county court at law regarding the county juvenile indigent defense plan, related attorney appointment lists and list maintenance, and related court appointment data. In that decision, the special committee held it could neither grant the petition in whole or in part nor sustain denial to the requested records because the records at issue were not judicial records under Rule 12.

The records requests and the Petitioners' appeals at issue here are substantially similar to those previously analyzed by the special committee in Rule 12 Decision No. 19-019, and we conclude that decision is dispositive of this appeal. Accordingly, we can neither grant the petition in whole or in part nor sustain denial to the records. Because the records at issue are not judicial records, we need not address Respondent's exemption claims, and we conclude Respondent was not obligated to comply with Rule 12 notice of denial procedures in responding to Petitioners.