

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 13-005

**RESPONDENT:** 23<sup>rd</sup> Judicial District Court

**DATE:** October 9, 2013

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chair; Judge Billy Ray Stubblefield; Judge David Peebles; Judge Dean Rucker; Judge Jeff Walker

Petitioner requested from Respondent copies of all documents related to his involvement in a crime he had reported to a police detective in 1972. He provided Respondent the case number and asked why he had not been called as a witness in the case. Petitioner has filed this appeal alleging that he has not received a response to his request.

The threshold issue in a Rule 12 appeal is whether the requested records are “judicial records,” which are defined by Rule 12.2(d) as follows:

“Judicial record means 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.)

The records Petitioner is requesting relate to the specific case that he identified in his request. Accordingly, the records pertain to the court’s adjudicative function and are not subject to Rule 12 because they are not “judicial records” as defined by Rule 12.2(d). We note, however, that case records or court records which are not “judicial records” within the meaning of Rule 12 may be open pursuant to other law such as the common-law right to public access. *See* Rule 12 Decisions 00-001 and 00-003. We also note that the primary significance of a decision finding that a record is not subject to Rule 12 is that the Rule 12 procedures for responding to requests and appealing the denial of requests do not apply. Neither the fact that a record is not subject to Rule 12 nor a decision making this determination should be used as a basis for withholding records.

Because the requested records are not judicial records under Rule 12, we are without authority to issue a decision in this matter.