

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 01-002

RESPONDENT: Margaret J. Reaves, Executive Director, State Commission on Judicial Conduct

DATE: July 19, 2001

SPECIAL COMMITTEE: Judge B. B. Schraub, Chairman; Judge Darrell Hester; Judge John Ovard; Judge Kelly Moore; Judge David Peeples

The applicant is a judge who was the subject of informal proceedings before the State Commission on Judicial Conduct (“the Commission”). After an informal hearing, he was advised that the Commission had voted to initiate formal proceedings against him. The judge then requested his investigative file from the Commission under Rule 12, and the Commission refused the request.

With certain exceptions, Rule 12 makes judicial records open to the public. A judicial record is 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.”

The investigative file sought in this matter pertains to the adjudicative function of the Commission, because during either informal or formal proceedings the Commission must make a determination of the disposition of the investigation or complaint. Thus, the records in the investigative file are not judicial records for purposes of Rule 12.