

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 07-006

RESPONDENT: Carl Weeks, Chair, Process Server Review Board

DATE: November 9, 2007

SPECIAL COMMITTEE: Judge B. B. Schraub, Chairman; Judge John Ovard; Judge David Peeples; Judge Olen Underwood; Judge J. Manuel Bañales

Applicant requested that the Process Server Review Board provide him with a copy of the Board's "subpoena, request letter and/or any other correspondence" directed to an individual who had filed a complaint with the Board and had testified at a Board meeting. Applicant was not the subject of the investigation. The Board withheld the records on the ground that they relate to an investigation of a persons' character or conduct and are exempt from disclosure under Rule 12.5(k). The Board did not provide us with *in camera* copies of the documents requested.

Records related to an investigation of a person's character or conduct that were not requested by the person being investigated and that do not become part of the record related to a public hearing are exempt from disclosure under Rule 12.5(k). Accordingly, we deny the petition for any such records.

However, records related to an investigation of a person's character or conduct that become part of the record in a public hearing, such as by being introduced and admitted into evidence or by being part of the hearing process itself (such as a subpoena) lose their character as investigative records and become records related to a public hearing. As such, they are no longer exempt from disclosure under Rule 12.5(k), and must be disclosed unless they fall within another exception or exemption. Accordingly, we grant the petition for a copy of the subpoena, the request letter, or any other documents of this nature.

Applicant raises other issues that are not related to the Board's compliance with Rule 12, which we will not consider.