

## Before the Presiding Judges of the Administrative Judicial Regions

### Per Curiam Rule 12 Decision

**APPEAL NO.:** 08-001

**RESPONDENT:** Carl Weeks, Chair, Process Server Review Board

**DATE:** July 10, 2008

**SPECIAL COMMITTEE:** Judge Olen Underwood, Chairman; Judge John Ovard; Judge David Peeples; Judge J. Manuel Bañales; Judge Dean Rucker

On March 14, 2008, Applicant sent a records request to an individual who is an employee of the Office of Court Administration (the "OCA employee"). The OCA employee serves both as the clerk for processing records of the Process Server Review Board ("PSRB"), and as the executive assistant for OCA. Applicant's letter requested the following:

"a copy of any and all correspondence between any person, company and/or association and any member of the Process Server Review Board (PSRB) in their capacity as a PSRB member and/or the Office of Court Administration and/or its staff that relates to the PSRB and/or the process server certification program and/or legislation relating to process service and that which is not exempt from disclosure under applicable sections of Rule 12, RJA, including, but not limited to letters, emails facsimiles and any other correspondence since January 1, 2008."

The OCA employee timely responded on behalf of OCA with a cost estimate for compliance, and said that another individual would respond for the PSRB. The applicant never pursued the OCA request or paid the estimate.

On March 31, the chair of the PSRB responded as follows:

"I do not have any control over the materials that are in the possession of other members of the Board. To the extent that you consider this a denial of access to judicial records, you may file a petition for review with Carl Reynolds, the Administrative Director of the Office of Court Administration at PO Box 12066, Austin, Texas 78711 as provided in Rule 12.9, Rules of Judicial Administration. . . ."

"I likely do have some email records that are responsive to your request, though they are commingled with my personal business emails. . . ."

The chair concluded with an estimate of 20 hours of work to isolate the responsive e-mails and a cost estimate based on an hourly billing rate of \$85.00 per hour.

The applicant's deadline for filing a Rule 12 appeal with the administrative director of OCA was 30 days from his receipt of the March 31 letter. On April 9, the applicant faxed a letter to the OCA employee with the following salutation:

**"Name:** [Employee's Name]  
**Organization:** Ct. Administration for the  
Texas Supreme Court's Process Server Review Board"

The letter stated that the applicant objected to the reasons for not releasing information that were stated in the chair's letter, complained about the cost estimate, and stated, "If he is unwilling to reconsider his response then I will officially by way of this fax appeal his decision."

On April 28, the applicant received a letter from the OCA employee stating that any Rule 12 appeal would need to be filed with Carl Reynolds, administrative director of OCA, and including the appeal information required by Rule 12.8. On May 12, the applicant sent an e-mail to Carl Reynolds styled "appeal," stating that it was to serve as his appeal, and attaching pertinent documents.

Although the original request for records from the PSRB was not addressed to its chair as custodian of records as required by Rule 12.6, the chair of the PSRB timely responded to the request and included "the name and address of the Administrative Director of the Office of Court Administration" if applicant wanted to appeal. Rather than follow those instructions and the requirements of Rule 12, the applicant sent a fax to the OCA employee. After receiving her letter on April 28, he attempted to appeal from the chair's March 31 letter by sending an e-mail rather than sending it to the address provided, and he did not do so within 30 days of receiving it.

We note that the procedural requirements of Rule 12 were designed to insure that appeals are routed to the committee of presiding judges and its staff as efficiently as possible. Circumventing those requirements can cause confusion and delay. We dismiss the appeal because it was filed incorrectly and untimely.