

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 08-002

RESPONDENT: Berta Mejia, Director and Presiding Judge, City of Houston
Municipal Courts Justice Department

DATE: September 2, 2008

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

Among other documents, Petitioner requested from the municipal court a copy of “administrative order 2006-01” and copies of documents, emails, or memoranda from the presiding judge or anyone acting on her behalf “instructing municipal court judges on how to conduct themselves with the prosecutors or how to enter dispositions.” The request was dated November 5, 2007, and was addressed to an individual who is not the records custodian for the municipal court. In a response to the petitioner dated May 7, 2008, the municipal courts justice department stated that the request was received in that office on April 23, 2008, and that if any such records existed, they would be exempt under Rule 12.5(a) of the Rules of Judicial Administration. By letter dated June 6, 2008, the petitioner appealed from this denial of records; the petition for review was received by the Office of Court Administration on June 11.

We first must decide whether the petition for review was timely filed. The date on the letter denying access was May 7; the filing date of the petition for review was June 11. We have no evidence of when the petitioner received the denial letter. Rule 12.9(c) provides that the petition must be filed not later than 30 days after the date that the petitioner receives notice of a denial of access to the judicial record. Although Rule 12 does not contain a mailbox rule, we will incorporate the mailbox rules found in Rule 5 and Rule 21a, and find that the petition was timely filed.

Petitioner does not address the exemption claimed by the respondent. Rather, he asserts that by delaying six months in responding to his request, the records custodian waived its objections. The respondent answered that the petitioner failed to address his request to the proper custodian of records, but the custodian responded within fourteen days of receiving the request. Because the request was not addressed to the custodian of records and the custodian filed within fourteen days of when she received the request, we will consider the petition and response on their merits.

Regarding the claimed Rule 12.5(a) exemption, the custodian did not provide the committee with any description of the requested documents or provide *in camera* copies for our consideration. She simply alleges that the requested records are related to the judge’s adjudicative decision-making process and are considered judicial work product. However, the description of the documents in the

request does not appear to be for documents that relate to a judicial officer's adjudicative decision-making process. Rather, it appears to be for judicial records related to the administrative processes of the municipal court. We are mindful of the policy statement in Rule 12.1 that the rule is to be liberally construed to achieve its purpose. Accordingly, we grant the petition for access to the denied records.