

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 09-002

RESPONDENT: Carl Weeks, Chair, Process Server Review Board

DATE: March 13, 2009

SPECIAL COMMITTEE: Judge Olen Underwood, Chairman; Judge John Ovard; Judge David Peeples; Judge Stephen B. Ables; Judge Jeff Walker

The Process Server Review Board (“the Board”) is a judicial agency within the definition of Rule 12.2(b). It was created by the Supreme Court of Texas to certify and to revoke certification of persons authorized to serve process under Rules 103 and 536 of the Rules of Civil Procedure. Petitioner requested the meeting packets provided to members the Board for the December 5, 2008 meeting and any other information provided to the Board by speakers. Petitioner was notified that the requested records would be withheld because they relate to litigation under Rule 12.5(j), and petitioner appealed.

Petitioner is a named plaintiff in a lawsuit filed September 5, 2008 against the Texas Process Server Review Board (*The Certified Civil Process Servers Association et al. (including Petitioner) v. The Supreme Court of Texas et al. (including the Process Service Review Board)*: Civil Action No. A08VA665LY, pending in the Western District of Texas). Plaintiffs seek to enjoin the Texas Supreme Court from creating or maintaining any administrative board to regulate process servers; they allege that creating and operating the Board violates 42 U.S.C. §1983 and the state constitution. In furtherance of the lawsuit, Petitioner has sought discovery from the Board, which includes material requested from the Board in its request under Rule 12 that is the subject of this appeal. Such information includes the names of people denied certification by the Board.

The records requested under Rule 12 are directly related to the lawsuit filed by Petitioner and others against the Board. Rule 12.5(j) provides an exemption to disclosure of judicial records “relating to civil or criminal litigation or settlement negotiations: (1) in which a court or judicial agency is or may be a party; or (2) in which a judicial officer or member of a judicial agency is or may be a party as a consequence of the person's office or employment.” The litigation at issue involves a court, a judicial agency, as well as persons who are members of the court and judicial agency. Accordingly, we deny the petition for review.