

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 09-004

RESPONDENT: Loren Jackson, Harris County District Clerk

DATE: September 4, 2009

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

The Petitioner is an individual who has requested copies of state district court case files from the Harris County District Clerk (Clerk). The Petitioner reviewed the files in the Clerk's office and then requested and received copies of a few pages from the files. According to the petition, several months later Petitioner requested that the records be scanned and made available on the World Wide Web by the Historical Documents Section of the Clerk's office as part of its program to digitally archive historical records and make them available to the public on its website. The Clerk's staff scanned the records and made them available on the Clerk's website, but the Petitioner was unable to retrieve them. After additional correspondence regarding the best method for Petitioner to obtain copies of these records, the Clerk's office agreed to provide the scanned copies on a disk at a cost of \$178.00 (\$1.00/page). Petitioner disputed the charge and asked for a waiver but ultimately paid the fee and received the records. Petitioner has filed an appeal for review of the costs assessed by the Harris County District Clerk for providing the records.

The threshold issue in a Rule 12 appeal is whether the records are "judicial records" as 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. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record." (Emphasis added.)

The records at issue in this appeal pertain to cases that were disposed of by the district courts in Harris County. Thus, they are not judicial records within the meaning of Rule 12; they are case records. Though Rule 12.7(c) of the Rules of Judicial Administration allows an appeal of the cost assessment for records provided under Rule 12, because the records at issue in this appeal are not "judicial records" under Rule 12, Rule 12.7 does not apply. Accordingly, we deny the Petition.