

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 10-007

RESPONDENT: Judge Edward L. Jarrett, Caldwell County Court at Law

DATE: May 18, 2010

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

Petitioner sent Judge Edward Jarrett an email requesting any information, communications, documents, etc. that either concerned her or mentioned her name. After several months passed without receiving a response, Petitioner sent Carl Reynolds an email requesting a “decision in this matter.” Her email appeared to be a Rule 12 appeal and this committee proceeded accordingly.

Respondent has informed this committee that he does not have any records responsive to Petitioner’s request and that he attempted to inform Petitioner of this by email. Respondent also states that he did not realize that Petitioner had failed to receive his email response until he was notified of this appeal. As support for his statement Respondent attached a copy of a screen shot of Petitioner’s email with an auto generated message at the top indicating that the email had been replied to on September 30, 2009. He also included a statement from the director of Caldwell County’s information technology division in which the director states that he had reviewed the judge’s email and found that the reply had failed to leave the “Outbox” because the failed delivery of a previous email had caused the email in question as well as 11 other emails to “hang in the Outbox.” Respondent appears to have made a good faith effort to respond to Petitioner as required by Rule 12 but was unsuccessful due to a technical email malfunction.

Respondent also informed this committee that Petitioner is a defendant in his court and that he attempted to refer Petitioner to the county clerk because he thought that Petitioner might be requesting records related to her case. Rule 12 only applies to “judicial records” defined by Rule 12.2(d) as “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.) Thus, to the extent that any records related to Petitioner’s case are in Respondent’s possession, they would be case records, not judicial records as defined by Rule 12.2(d). *See* Rule 12 Decisions 00-001 and 00-003.

Because Respondent does not possess judicial records that are responsive to Petitioner’s request and any records related to Petitioner’s court case that might be in his possession are case records that are not covered under Rule 12, this appeal is denied.