

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 10-010

**RESPONDENT:** The Honorable Vera Foreman, Justice of the Peace, Precinct 4, Cherokee County

**DATE:** July 19, 2010

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge Olen Underwood, Judge David Peeples, Judge J. Manuel Bañales, Judge Billy Ray Stubblefield

Petitioner requested from Respondent a “state comptroller ticket” related to a case that had been transferred to Respondent’s court under a change of venue. The request was submitted on a preprinted form entitled “Open Records Request.” Respondent informed Petitioner that access to judicial records is governed by Rule 12 of the Rules of Judicial Administration, not by the Public Information Act, and provided information regarding Petitioner’s right to appeal under Rule 12.9. Respondent did not provide any other explanation for denying the request.

The threshold issue in a Rule 12 appeal is whether the requested records are “judicial records,” which are 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.)

Petitioner’s request states that the record she seeks relates to a case that was transferred to Respondent’s court. Thus, the requested record is a case record, not a judicial record as defined by Rule 12.2(d), and it is not covered under Rule 12.<sup>1,2</sup> Accordingly, we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.

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<sup>1</sup> We note, however, that case records or court records which are not judicial records within the meaning of Rule 12 may be open pursuant to other law such as the common-law right to public access. See Rule 12 Decisions 00-001 and 00-003.

<sup>2</sup> We also note that if the requested record had been subject to Rule 12, the fact that Petitioner did not indicate that her request was made under Rule 12 would have been immaterial. “Citizens should be given access to judicial records regardless of whether they are able to invoke the correct ‘magic words’ to gain that access.” Rule 12 Committee Decisions 05-005 and 09-001.