

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 10-013

RESPONDENT: Supreme Court of Texas

DATE: September 28, 2010

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

Petitioner requested from Respondent “any and all applications for membership on the Process Server Review Board or any variation of that name.” Respondent denied Petitioner’s request claiming that the records are exempt under Rule 12.5(e) of the Rules of Judicial Administration (Applicants for Employment or Volunteer Services). Petitioner appeals the denial of his request.

Petitioner argues that members of the Process Server Review Board (PSRB) are neither employees nor volunteers and, therefore, Rule 12.5(e) does not exempt their applications. Petitioner also argues that the PSRB is not covered by Rule 12 because it has “been given authorities that supersede an administrative function” and that Rule 12 is “inappropriate and inadequate for the release of information relating to regulatory functions by the PSRB.”

We first address Petitioner’s argument that the PSRB is not covered by Rule 12. Several Rule 12 decisions have concluded that the PSRB is a judicial agency under Rule 12. *See* Rule 12 Decisions No. 07-003, No. 09-002 and No. 10-001. Furthermore, whether the PSRB is subject to Rule 12 is irrelevant in this appeal. The Supreme Court of Texas is the custodian of the requested records and the Respondent in this appeal, not the PSRB, and it is undisputed that the Supreme Court of Texas is a judicial agency under Rule 12.

We next address whether the records requested by Petitioner are exempt from disclosure under Rule 12.5(e). This provision exempts “[a]ny records relating to an applicant for employment or volunteer services.” Petitioner argues that Rule 12.5(e) does not apply to records related to members of the PSRB because they are government officials, not volunteers or employees. Respondent advises us that PSRB members do not get compensated for their service and are not reimbursed for the expenses they incur. Respondent’s position is that a person can be both a volunteer and a government official.

We agree that PSRB members are volunteers. Accordingly, the applications for membership on the PSRB requested by Petitioner are exempt from disclosure under Rule 12.5(e).

We deny the petition for review.