

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 10-016

**RESPONDENT:** The Honorable Loren Jackson, Harris County District Clerk

**DATE:** December 28, 2010

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge John Ovard, Judge David Peebles, Judge Jeff Walker, Judge Billy Ray Stubblefield

On October 5, 2010, Petitioner submitted a written request to inspect records associated with a specific criminal case filed in Harris County and maintained by the Harris County District Clerk (“Clerk”). In a letter dated October 26, 2010, Petitioner notified the Office of Court Administration that he had not received a response from the Clerk. On October 28, 2010, the Clerk responded to Petitioner advising him where the records could be inspected. Petitioner then filed this Rule 12 appeal alleging that he has not been allowed to inspect the requested records. In a letter attached to his appeal Petitioner also alleges that the Clerk’s October 28 response violates Rule 12 by failing to include information regarding the time and date when the records will be available for inspection, the reason for the denial of access to the requested records, and information regarding Petitioner’s right to appeal.

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 has requested access to records related to a specific court case. Thus, they are case records, not judicial records as defined by Rule 12.2(d), and they are not covered under Rule 12.<sup>1</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.