

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 10-017

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

**DATE:** February 3, 2011

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge Olen Underwood, Judge Billy Ray Stubblefield, Judge David Peeples, Judge Jeff Walker

Petitioner requested from Respondent copies of “all documents including the serial number the constable has that he is disputing the tractor is not my property to file in a higher court.”

Respondent denied Petitioner’s request stating that the judiciary is excluded from the Public Information Act and that judicial records are governed by Rule 12 of the Rules of Judicial Administration. Respondent also provided information regarding the procedure for appealing the denial of access to judicial records under Rule 12. Petitioner then filed this 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.)

The documents filed by Petitioner in this appeal state that his case was transferred to Respondent’s court and describe two of the hearings held in Respondent’s court. Though a cause number was not included in the documents, based on the information provided by Petitioner we conclude that the requested records relate to a case filed in Respondent’s court. 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.