

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 11-008

RESPONDENT: Thirteenth Court of Appeals

DATE: August 8, 2011

SPECIAL COMMITTEE: Judge Steve Ables, Chairman; Judge John Ovard; Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge David Peoples

Petitioner requested information from the Thirteenth Court of Appeals (the “Court”) regarding the amount of fees collected by the Court pursuant to Tex. Gov’t Code Secs. 22.214 and 22.2141 (the “funds”), itemization of travel expenditures and receipts related to expenditures paid from the funds, the current bank balance and copies of bank statements and check registers related to accounts in which the funds were deposited, itemization of expenditures entitled “Rent-Building (Parking and Off-Site Storage) paid from the funds, and copies of credit card statements for credit cards issued for use by the Court or persons officially authorized to use the card on the Court’s behalf. The information was requested for fiscal years 2008, 2009, and 2010.

The Court provided the current bank balance and latest bank statement to Petitioner and informed him that it would take approximately 100 hours to locate, copy, and redact confidential information from the remainder of the requested documents. The Court estimated it would cost \$1,500 to complete the request based on the estimated number of hours to complete the request times \$15 per hour for labor. The Court also informed Petitioner that it would take 90 to 120 days to provide the requested information due to staff availability and the need to maintain regular Court operations. Applicant is appealing the cost estimate and the time the Court has proposed to comply with the request.

Rule 12.7(a) of the Rules of Judicial Administration provides that, in the absence of a relevant statute, the costs for providing copies of judicial records are determined in accordance with the rules prescribed by the Office of the Attorney General (OAG) in the Texas Administrative Code. In the case of requests for 51 or more pages, a judicial officer or agency may charge \$.10 per page, \$15 per hour for labor and 20 percent of the cost of labor for overhead costs. 1 Tex. Admin. Code §70.3 (2011) (Charges for Providing Copies of Public Information).

The Court's estimate did not include charges for copies or overhead; its estimate is based on the cost of labor required to locate, copy and redact, if necessary, the requested information. Because the Court's estimate exceeds 51 pages, the hourly charge of \$15 per hour proposed by the Court is consistent with the OAG's rules and is not unreasonable.

Petitioner suggests that 100 hours is an excessive amount of time to locate and provide the records. The time it will actually take to comply with this request will depend primarily on the number of records responsive to the request, whether the records will need to be redacted and how the records are maintained. If the time to comply with the request actually takes less than 100 hours, the Court has indicated it will adjust its charge accordingly.

Petitioner also alleges that it is unreasonable for the Court to take 90 to 120 days to comply with the request. The Court has explained that only one person has access to these records and that he will be working on this assignment while fulfilling his other responsibilities with the Court. The Court has also acknowledged that the public interest is best served by open courts and by an independent judiciary. We are confident that the Court will comply with its responsibilities under Rule 12 and provide the records as soon as practicable as required by Rule 12.6(b).

In summary, we find that the estimated rate for labor costs is not unreasonable and that the estimated time to compile the records and the amount of time to complete the request may be reasonable depending on the number of responsive records and the operations of the Court. Accordingly, we deny the appeal. However, we are confident the Court will review its method for storing records and the time it allocates for processing Rule 12 requests to ensure that it is complying with the purpose of Rule 12 and, if necessary, make cost and time adjustments related to processing this request. We also give Petitioner leave to refile his appeal if after receiving the requested records Petitioner still believes the charge is unreasonable.