

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 11-013

RESPONDENT: 388th District Court, El Paso County

DATE: January 6, 2012

SPECIAL COMMITTEE: Judge J. Rolando Olvera, Chair; Judge John Ovard; Judge Olen Underwood; Judge David Peeples; Judge Jeff Walker

Petitioner requested from the 388th District Court (the “court”) miscellaneous records regarding a specific case pending in the court and copies of the court’s calendar. The court failed to respond to Petitioner’s request within the 14 days provided by Rule 12 of the Rules of Judicial Administration and Petitioner subsequently filed this appeal alleging that the court’s failure to respond is a denial of access to judicial records. When the court was provided a copy of the appeal and asked to submit a response, the judge of the court informed the clerk of this committee that the court had not received Petitioner’s original request. Shortly thereafter this committee received a letter from the judge advising that she had provided to Petitioner all of the existing documents that were responsive to Petitioner’s request and that no records had been withheld or denied. The clerk of this committee contacted Petitioner to confirm that he had received the requested records and to notify him that his appeal would be administratively dismissed. Petitioner informed this committee that he believes that the following requested records do exist and have been withheld by the court: court recorder’s logs for hearings held on June 23, 2010, August 3, 2010, September 16, 2010, and November 16, 2010, and records associated with two events shown as “court administration” on the Register of Actions for a specific case pending in the 388th District Court.

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.” (Emphasis added.)

The remaining records at issue in this appeal pertain to the court’s adjudicative function. Thus, they are case records, not judicial records as defined by Rule 12.2(d), and they are not covered under Rule 12.¹ Accordingly, we are without authority to issue a decision in this matter.

¹ 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.