

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 15-003

RESPONDENT: Justice of the Peace, Precinct 1, Dallas County

DATE: May 12, 2015

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Billy Ray Stubblefield; Judge David Peeples; Judge Dean Rucker; Judge David L. Evans

Petitioner filed a petition for review alleging that Respondent had not replied to his request to inspect the files of two cases filed in Respondent's court though more than 14 days had elapsed from the date of his request.

A "judicial record" is defined by Rule 12.2(d) as 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 records requested by Petitioner relate to matters that are or have been before a court; therefore, they are not "judicial records" as defined by Rule 12.2(d) and they are not subject to Rule 12. *See* Rule 12 Decision Nos. 03-005 and 11-004.

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. We also note that the primary significance of a decision finding that a record is not subject to Rule 12 is that the Rule 12 procedures for responding to requests and appealing the denial of requests do not apply. Neither the fact that a record is not subject to Rule 12 nor a decision making this determination should be used as a basis for withholding records.

Because the records at issue are not judicial records under Rule 12, we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.