

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 17-006

RESPONDENT: Court of Criminal Appeals

DATE: July 17, 2017

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge Dean Rucker; Judge Kelly G. Moore

Petitioner requested from Respondent a copy of a memorandum prepared by Respondent's staff analyzing the claims in a case filed with Respondent. Respondent denied Petitioner's request explaining that the record was exempt from disclosure under Rule 12.5(a) of the Rules of Judicial Administration. Petitioner then filed this appeal.

A "judicial record" subject to Rule 12 is one that is "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.) Rule 12.2(d).

Petitioner requested a document prepared by Respondent's staff analyzing claims in a case filed with Respondent. The requested document pertains to Respondent's adjudicative function. Accordingly, it is not a "judicial record" as defined by Rule 12.2(d) and it is not subject to Rule 12. *See* Rule 12 Decisions Nos. 00-001, 03-005, and 11-004.

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