

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 17-008

RESPONDENT: Second Court of Appeals

DATE: August 16, 2017

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Missy Medary; Judge Dean Rucker

Petitioner requested from Respondent a copy of an audio recording of an oral argument heard by Respondent in a named case. Respondent's clerk informed Petitioner that an audio recording of the oral argument in the named case had not been made. 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).

Oral arguments heard by Respondent pertain to its adjudicative function. Accordingly, the requested record 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. 12-001 and 14-004.

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.