

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 17-012

RESPONDENT: City of Kerrville Municipal Court

DATE: September 13, 2017

SPECIAL COMMITTEE: Judge Dean Rucker, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge David L. Evans; Judge Kelly G. Moore

Petitioner requested from Respondent traffic citations from July 1st to July 31st, 2017. Respondent denied Petitioner's request but also informed Petitioner that he could review the records by contacting the court to set up a time to view those documents that are subject to public inspection. Petitioner then filed this appeal.

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 are records that were created, produced and filed in connection with cases that have been before the City of Kerrville Municipal 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 Decisions Nos. 01-001 and 17-005.

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.¹

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. 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.