

Before the Presiding Judges of the Administrative Judicial Regions Per Curiam Rule 12 Decision

APPEAL NO.: 19-010

RESPONDENT: Fifth District Court of Appeals

DATE: September 24, 2019

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Sid Harle; Judge Missy Medary; Judge Dean Rucker; Judge David L. Evans

On June 3, 2019, Petitioner requested from Respondent a “copy of the complete contents” of her personnel file. In reply, Respondent informed Petitioner, a former employee of Respondent, that she had been given a copy of her personnel file on May 18, 2018 and provided her a copy of the form she signed on that date acknowledging receipt of the file. Petitioner then filed this appeal asserting that she was not provided copies of the entire contents of her personnel file and that Respondent did not comply with Rule 12 when denying her request.

Respondent has informed this special committee that after receiving notice of this appeal Respondent identified documents that had been added to Petitioner’s personnel file after May 18, 2018, and that those documents have now been provided to Petitioner. Respondent also informed Petitioner that she may arrange a time to inspect or make copies of the file at Respondent’s office.

Personnel files maintained by a court or judicial agency are available to the public under Rule 12, subject to applicable Rule 12 exemptions. *See* Rule 12 Decision No. 19-005. Respondent has not raised any exemptions from disclosure that may apply to the responsive records; therefore, Petitioner is entitled to a copy of the entire contents of her personnel file.¹ Respondent relies on the fact that Petitioner was provided a copy of her file in May of 2018 as a reason to deny the request. Although Petitioner may have been provided a copy of her personnel file during her employment with Respondent, now that she is no longer employed by Respondent she is entitled to request and receive a copy of her personnel file under Rule 12.² Additionally, Petitioner did not request an opportunity to inspect the file; she requested a copy. Under Rule 12, a records custodian should provide copies when they are requested. Providing an opportunity to inspect requested records is an appropriate response only if it is acceptable to the requestor.

Lastly, the denial of a request for access to judicial records must be in writing and include the following: 1) the reason for the denial, 2) information regarding the requestor’s right to appeal under Rule 12.9, and 3) the name and address of the Administrative Director of the Office of Court Administration. Rule 12.8(c). We agree that Respondent’s denial lacked the required elements of a Rule 12 denial letter.

¹ Petitioner asserts that items were missing from her personnel file when she was provided a copy in May of 2018.

² Petitioner’s employment with Respondent ended December 31, 2018.

Accordingly, the petition is granted, and Petitioner should be provided copies of the complete contents of her personnel file. Because we reached this decision without the benefit of reviewing the responsive records, we give Respondent leave to submit for our *in camera* review responsive records that Respondent believes may contain information that is exempt from disclosure.