

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

**APPEAL NO.:** 19-023

**RESPONDENT:** 249th District Court, Johnson County

**DATE:** January 28, 2020

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chairman; Judge Ray Wheless, Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Susan Brown

On October 18, 2019, Petitioners each made a Rule 12 request for records related to their “good cause” removal from the Johnson County felony indigent defense appointment list and misdemeanor indigent defense appointment list, as well as related attorney appointment data.<sup>1</sup> Respondent replied on October 28, 2019, that it had no documents responsive to the requests and was unaware of the existence of any responsive documents. Respondent then sent a supplemental reply to Petitioners on October 31, 2019 indicating it was providing them with certain documents in response to their requests. Respondent noted it was not making any pronouncements as to whether the provided documents demonstrated “good cause” for removal of Petitioners from the appointment lists because doing so would “invade the parameters” of the exemptions provided by Rule 12.5(a) (judicial work product) and Rule 12.5(f) (internal deliberations). Respondent separately asserted that documents or records that fell under Rule 12.5(a) and Rule 12.5(f) were exempt from disclosure. Petitioners then filed this appeal. The special committee will not address Petitioners’ appeals requests that extend beyond the scope of the records requested from the Respondent.<sup>2</sup>

Petitioners have filed a series of appeals that involve requests for records from Johnson County judicial officers. *See* Rule 12 Decision Nos. 19-019, 19-020, and 19-021. The records requests at issue and the Petitioners’ appeal in this decision are substantially similar to those found in Rule 12 Decision No. 19-021, where we concluded that Rule 12 Decision No. 19-019 was dispositive of the records at issue. We conclude that Rule 12 Decision No. 19-019 is also dispositive of this appeal. Accordingly, we can neither grant the petition in whole or in part nor sustain denial to the records. Because the records at issue are not judicial records, we need not

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<sup>1</sup> In Petitioners’ October 18 letters, three of Petitioners’ five requests sought documents that might show any “good cause” reasons to substantiate the removal of Petitioners from the felony and misdemeanor indigent defense appointment lists at various dates. The two remaining requests related to the number of indigent felony defendants and indigent misdemeanor defendants who requested a Spanish-speaking court-appointed attorney.

<sup>2</sup> The special committee will not comment on the nature of the documents submitted to it that extend beyond the records sought by Petitioners in their Rule 12 records requests. Rule 12 exists to provide public access to information in the judiciary, and does not require the special committee to opine on the validity of assertions posed by Petitioners. *See* Rule 12 Decision No. 19-016.

address Respondent's exemption claims, and we conclude Respondent was not obligated to comply with Rule 12 notice of denial procedures in responding to Petitioners.