

# Before the Presiding Judges of the Administrative Judicial Regions

## Per Curiam Rule 12 Decision

**APPEAL NO.:** 22-013

**RESPONDENT:** Travis County Civil Court Administration

**DATE:** January 17, 2023

**SPECIAL COMMITTEE:** Judge Stephen B. Ables, Chair; Judge Dean Rucker; Judge David Evans; Judge Ana Estevez; Judge Ray Wheless

On November 6, 2022, Petitioner sent to Respondent a request for the following categories of records:

1. “All 2019 weekly docket settings for the Travis County District Civil Courts (non-family)”;
2. “All records of cases including parties, dates and attorneys presided over by [the 419th District Court Judge] from 2019 to present”;
3. “Any records of the administration of the Travis County Central Docket in 2019”; and
4. “Any records of requests in 2019 under Section 2.6 Assignment of All or Part of Case to a Particular Judge in the Local Rules of Civil Procedure, The District Courts of Travis County Texas.”

In a November 14 reply to Petitioner, Respondent denied access to the requested records on the grounds that they were not “judicial records” subject to disclosure under Rule 12 because to the extent they existed they “are maintained by the judiciary and pertain to case files relating to matters brought before the Court, or to the adjudicative function of the Travis County Civil Courts.” Following receipt of Petitioner’s timely appeal and acting under the direction of the Special Committee’s Directive Regarding Petitions for Access to Case Records, the Office of Court Administration (OCA) informed Petitioner that from the face of the petition it appeared the records requested were case records, not judicial records subject to Rule 12. The OCA letter granted Petitioner two weeks to contest OCA’s conclusions. Shortly thereafter, Petitioner submitted a reconsideration letter conceding that Items 1 and 2 of the request were case records and withdrawing the petition for those records. Petitioner then cited Rule 12 Decision No. 08-002 in requesting reconsideration of the petition for the remaining requests. Upon further review, the Special Committee for Review of Petitions for Access to Case Records requested that the petition, limited to Items 3 and 4 of Petitioner’s request, be referred to a special committee for review.

We first address the records responsive to Item 3 of Petitioner’s request. The threshold issue in a Rule 12 appeal is whether a record is a “judicial record” as defined by Rule 12.2(d). Item 3 of Petitioner’s request seeks “[a]ny records of the administration of the Travis County Central Docket in 2019.” Respondent denied access to the records on the grounds that the records sought fell outside the definition of “judicial records” because they either pertained to case files relating to matters brought before the court or to the adjudicative function of the county courts. Petitioner challenged Respondent’s framing of the Item 3 records request, stating that it “involve[s] the

administration of the court system . . . not [the court system's] adjudicative function in resolving the disputes between 2 or more parties.” In its reply to the appeal, Respondent added that “Item (3) seeks information concerning the District Courts’ central docket, which refers to the daily process by which Court Administration distributes each of the settings — matters scheduled for a hearing at that day and time — to an available District Court for hearing and adjudication.”

Several Rule 12 Decisions have concluded that records related to a court’s administration of cases pertain to a court’s adjudicative function. In Rule 12 Decision No. 09-006, the petitioner was denied access to internal administration rules for issuing opinions and orders from a court of appeals. The special committee observed that, although the internal administration rules requested did not relate to a specific case or matter before the court, the internal administration rules did relate to how the court processed cases for disposition and regulated the method by which cases pending in the court were decided. Subsequent Rule 12 decisions have built upon this interpretation. *See* Rule 12 Decision Nos. 17-018 (internal operation procedure manual regarding how court processes cases pertains to adjudicative function), 19-016 (court’s local rules of procedures, when maintained by court, relate to adjudicative function because they address processing of cases), and 19-026 (internal operating procedures and local rules relate to court’s adjudicative function because they address processing of cases).

In his appeal, Petitioner does not reference any of these decisions and relies instead on Rule 12 Decision No. 08-002 to support his contention that docket administration records “[c]an be considered judicial records related to administrative process.” In Rule 12 Decision No. 08-002, the petitioner requested from a local municipal court a copy of a certain administrative order and other records instructing municipal court judges on decorum and conduct. The respondent asserted a Rule 12.5(a) (Judicial Work Product and Drafts) exemption to disclosure, but neither provided the special committee with a description of the withheld documents nor provided any documents to the special committee for in camera consideration. Rather, the respondent simply alleged that the requested records related to the judge’s adjudicative decision-making process and was considered judicial work product. Without the benefit of the records or a description of them, the special committee granted the petition for access noting that the requested records appeared to relate to the court’s administrative processes.

In essence, Rule 12 Decision No. 08-002 considered whether the requested records were exempt under Rule 12.5(a) as judicial work products or drafts. After reviewing the Rule 12 decisions issued after Decision No. 08-002 and the description of the records provided by Respondent, we conclude that Decision No. 08-002 is not controlling in this appeal. As noted above, how a court processes or decides cases is part of its adjudicative function. *See* Rule 12 Decision Nos. 09-006, 17-018, 19-016, 19-026. Records that relate to the daily process by which a court administration office distributes settings are part of how a court processes cases and are therefore part of a court’s adjudicative function. Accordingly, the records in Item 3 are not “judicial records” under Rule 12 and we are without authority to grant the petition in whole or in part or sustain the denial of access to the requested records.

Next, we address the records responsive to Item 4 of Petitioner’s claim. Under Rule 12.2(d), a record “created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record.” Such records are case records. *See* Rule 12 Decision No. 00-001. Item 4 of Petitioner’s request seeks “any records of requests in 2019 under section 2.6 [of the Local Rules of Civil Procedure and Rules of Decorum for the District Courts of Travis County]” (hereinafter “Travis County Local Rules”). Rule 2.6 of the Travis County Local Rules is entitled “Assignment of All or Part of Case to a Particular Judge.” Local Rule 2.6 itself reads in part: “*If a party or parties believe that a case, or part of a case, has unusual characteristics that*

make it particularly suitable for assignment to one judge, the party or parties jointly may request the Local Administrative Judge *to assign the case* to one judge” (emphasis added). Petitioner’s request, as extrapolated through Travis County Local Rule 2.6, is therefore a request for any records requesting that a case or part of a case be assigned to a judge. Records of request under Travis County Local Rule 2.6, then, are records “created, produced, or filed” in connection with a case and as such are case records, not judicial records. The special committee has no authority under Rule 12 to review a dispute over case records. *See* Rule 12 Decision No. 00-001.

The records in Items 3 and 4 fall outside Rule 12’s definition of “judicial records.” Accordingly, the petition is dismissed.