

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 26-014

RESPONDENT: Presiding Judge, 408th Civil District Court, Bexar County

DATE: August 5, 2026

SPECIAL COMMITTEE: Judge David Evans, Chair; Judge Ben Woodward; Judge Missy Medary; Judge Kirsten Cohoon; Judge Susan Brown

Petitioner requested from Respondent the following:

- Item 1: “All emails, texts, or other communications which were sent or received by [Respondent] relating to this case, or to me personally, including on her personal cellphone. Please search on the name Mullerin as well as case number 2023CI00045, between the dates of January 3rd, 2023 and May 26th, 2026.
- Item 2: “The application for judgeship, resume, background investigation, evaluation of character and fitness, and any biographical information within the possession, custody, or control of the court, or of [Respondent] personally, relating to [Respondent].”
- Item 3: “Records of financial contributions, contributions in kind, or solicitations to to [sic] or concerning [Respondent] to run for a judgeship made by any representative of the Catholic Church.”

Petitioner attempted to temper its request by noting that it was not asking for documents “regularly filed” in connection with a particular case, but only those “communications OUTSIDE the records of the case[.]” Having not received a reply to its request, Petitioner filed an appeal in which it requested expedited review of its petition. Respondent has not submitted a response to the petition.

As an initial matter, we deny Petitioner’s request for expedited review. Next, we address Petitioner’s “waiver of defense” argument. Petitioner posits that because Respondent has not replied to its records request, it “has waived any arguments that the records can be denied on any basis, including privilege; that disclosure would impede the routine operation of the court; or that the documents are not judicial records.” Unlike the Public Information Act, Rule 12 does not contain a presumption of openness where a government body fails to timely request a decision from the Office of the Attorney General regarding the release of a document. *See* Rule 12 Dec. No. 19-026. Rule 12 is not universally applicable, even to records that on their face might be “judicial records” under Rule 12. *See* Rule 12 Dec. No. 26-011. And Rule 12 cannot compel the disclosure of records that are not subject to disclosure under Rule 12. *See* Rule 12 Dec. No. 26-005. We decline to alter Rule 12’s text by incorporating into it a waiver provision that does not exist.

Next, we address request Items 1 and 3. A record created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record. *See* Rule 12.2(d). Such records are case records. *See* Rule 12 Dec. No. 00-001. It appears to the special committee, based on the language of Petitioner's request and based on Petitioner's comments in its petition regarding the nature of the records sought, that the records in Item 1 are not in fact judicial records, but case records. And as for Item 3, the records sought are akin to those at issue in Rule 12 Dec. No. 17-027. In that appeal, the petitioner in part sought copies of campaign contribution reports. The special committee concluded the campaign contribution records were not "judicial records" under Rule 12 because they were not made or maintained by or for a court in its regular course of business. *See* Rule 12 Dec. No. 17-027. Likewise, we conclude that the Item 3 records are not "judicial records" kept in the regular course of business by Respondent. Accordingly, as to Items 1 and 3 we are without authority to grant the petition in whole or in part or sustain a denial of access to the requested records, and the petition must be dismissed as to those Items.

Finally, as to the Item 2 records, Respondent has not submitted a reply to the petition. As we noted above, Rule 12 is not universally applicable to all records and the special committee cannot apply Rule 12 to compel the disclosure of records outside of its scope. Without additional information from Respondent, we are currently unable to conclude whether Rule 12 applies to the Item 2 records sought by Petitioner, and if it does apply, what records would be exempt from disclosure. Accordingly, we grant Respondent 10 working days from the date of this opinion to inform the Petitioner and the special committee whether Respondent has judicial records responsive to the Item 2 request. Should Respondent confirm it has responsive judicial records, Respondent should release them without delay or, alternatively, provide to the special committee any objection to records production.