

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 15-015

RESPONDENT: City of Joshua Municipal Court

DATE: November 30, 2015

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Kelly G. Moore

Petitioner submitted three requests for records to the City of Joshua (the “City”) on a form created by the City for records requests. Two of the requests were for copies of any visual or audio recordings taken via equipment affixed to the walls of the city hall building or worn by any person, including law enforcement, on specific days during specific hours. The City of Joshua Municipal Court, not the City, denied Petitioner’s request for records claiming they are exempt from disclosure under Rule 12.5(b), *Security Plans*, 12.5(c), *Personnel Information*, 12.5(f), *Internal Deliberations on Court or Judicial Matters*, and 12.5(j)(1), *Litigation or Settlement Negotiations*. Respondent also claimed that releasing the records would impede the routine operations of the court by disclosing non-public areas of the court and impede the bailiffs from discharging their duties. Petitioner then filed this appeal.¹

Petitioner alleges that the City denied her request “by attempting to classify them as court records.” Court records are subject to Rule 12 if they are “judicial records.” Rule 12.2(d) defines judicial records, in pertinent part, as “records made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function.” Though video recordings made on a body camera worn by a law enforcement officer assigned to a court as its bailiff are not ordinarily records “made for or by a court” and the process of recording via a body camera may not ordinarily be considered part of the court’s “regular course of business,” there may be instances² in which these recordings may be considered records maintained by or for court in its regular course of business. Accordingly, we will consider this appeal.³

In its response to this appeal, Respondent argues that the video recordings requested by Petitioner are exempt under Rule 12.5(b) which reads:

(b) *Security Plans*. Any record, including a security plan or code, the release of which would jeopardize the security of an individual against physical injury or jeopardize information or property against theft, tampering,

¹ The information requested by Petitioner in her third request has been provided to her; therefore, this decision addresses only the denial of the audio/visual recording requested by Petitioner.

² One example would be in instances where a bailiff is a court employee employed by the court rather than a law enforcement officer assigned by the officer’s employing law enforcement agency to assist the court as a bailiff or if the court regularly maintains copies of the recordings or has an agreement with the law enforcement agency that records created by the bailiff while assigned to the court are the court’s records.

³ If these records were not “judicial records” we would be without authority to consider this appeal.

improper use, illegal disclosure, trespass, unauthorized access, or physical injury.

Respondent indicates that the requested video recordings “include footage of ‘non-public, secure areas of the Court.’” We agree that the release of video recordings of the non-public areas of the court’s offices could jeopardize the security of an individual against physical injury or jeopardize information or property against trespass or unauthorized access and agree that those portions of the video recording may be withheld. However, a record is not exempt in its entirety because portions of it are exempt from disclosure. The proper response is to redact exempt information from the record before providing a copy to the requestor. *See* Rule 12.6(d) and Rule 12 Decision No. 11-009. A video recording of public areas outside the court’s offices or courtroom do not necessarily pose a risk to the security of the court or its personnel and may be subject to disclosure. Accordingly, we decide that Respondent should redact the portions of the video recording that contain footage of the non-public areas of the building and release the remainder of the recording. If Respondent believes that the portions of the video of the non-public areas also pose a threat to security and should also be exempt from disclosure under Rule 12.5(b), we give Respondent leave to submit the video recording for our *in camera* review along with the reasons for maintaining that the portions of the video of the public areas of city hall are also exempt under Rule 12.5(b).

Because Petitioner during the appeal process limited her request to the portions of the video recording of the public areas of the building, the Rule 12.5(c), *Personnel Information* and Rule 12.5(f), *Internal Deliberations on Court or Judicial Matters* exemptions do not apply to the record at issue in this appeal. Respondent also raised Rule 12.5(j)(1), *Litigation or Settlement Negotiations*, as a reason to withhold the requested record. However, we are not aware of any pending litigation and Respondent did not provide this committee with any information that would indicate that litigation involving the court regarding this matter is pending or anticipated. Therefore, this exemption does not apply to the records at issue in this appeal either.

In summary, Respondent should redact the portions of the video recording that contain footage of the non-public areas of the building and release the remainder of the recording. If Respondent believes that the portions of the video of the non-public areas also pose a threat to security and should be exempt from disclosure under Rule 12.5(b), Respondent may submit the video recording for our *in camera* review as discussed above.