

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NOS.: 17-003

RESPONDENT: 14th Judicial District Court

DATE: June 20, 2017

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chair; Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Missy Medary; Judge Kelly G. Moore

Petitioner submitted a request to Respondent for the inspection and copying of Respondent's phone records for a specific period. Petitioner filed this appeal asserting that Respondent did not reply to his request. Respondent has submitted a response in this appeal that includes a copy of an email denying the request that was sent to Petitioner on Respondent's behalf. In the denial and the response to this appeal, Respondent maintains that the requested phone records are not in Respondent's custody or control. Respondent also asserts that the requested records pertain to the court's adjudicative function and, therefore, they are not judicial records as defined by Rule 12.

A prior special committee has already concluded that telephone bills do not relate to a judicial officer's adjudicative decision-making process and that they are judicial records under Rule 12. *See* Rule 12 Decision No. 11-009. Additionally, though we understand that the requested records may not be in Respondent's custody, a judicial officer who receives a request for a judicial record not in his or her custody must promptly attempt to ascertain who the custodian is and, if the custodian of the records can be ascertained, promptly refer the request to that person.¹ *See* Rule 12.6(f).

Accordingly, we conclude that the requested records are subject to Rule 12 and Respondent should attempt to ascertain who the custodian of the requested records is and, if successful, refer the request to that person.

¹ District courts' telephone records are often maintained by the county treasurer or auditor