

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO: 21-002

RESPONDENT: Office of Court Administration

DATE: March 11, 2021

SPECIAL COMMITTEE: Judge Dean Rucker, Chairman; Judge Missy Medary; Judge Billy Ray Stubblefield; Judge David L. Evans; Judge Sid Harle

On January 7, 2021, Petitioner requested from the Office of Court Administration (OCA) any emails sent to the email domain for OCA (TXcourts.gov) from an email address attributed to a presiding judge of an administrative judicial region that mentioned the Petitioner's name or any variations of his name for the period January 1, 2019 through January 7, 2021. Petitioner further requested any emails sent from the email address of the identified presiding judge that mentioned Petitioner's name or any variants of his name for the same period. Petitioner's email, directed to OCA's General Counsel, was copied to more than a dozen judicial agency officials, including selected presiding judges of the administrative judicial regions or their support staff, a former regional presiding judge, an OCA staff person, and the Chief Justice of the Texas Supreme Court.

On January 15, 2021, counsel for OCA sent a response to Petitioner stating that because (1) Petitioner had requested records from OCA's email domain, (2) the email domain was maintained by OCA, and (3) none of the individuals copied on the request were the custodians of the records responsive to the request, OCA would be the sole Respondent to Petitioner's request. OCA denied Petitioner's request, explaining that the records responsive to the request were not "judicial records" as defined by Rule 12.2(d) because the records pertained to the adjudicative function of matters that had been before previous special committees, and were therefore not subject to Rule 12. OCA further explained that, even if the responsive records were subject to Rule 12, the records would be exempt from disclosure under Rule 12.5.

On January 25, 2021, Petitioner initiated this appeal, disputing that OCA was the proper records custodian and alleging that because the identified regional presiding judge failed to respond to Petitioner's Rule 12 request within the proper timeframe, the records sought are "deemed to be public records." Lastly, on February 14, 2021, Petitioner made a request for a new special committee, alleging that because OCA lacked standing to submit a response its response "tainted" the appeal.

We first address Petitioner's request for a new special committee. Petitioner offers only conclusory allegations to support his request, and as the Petitioner has not provided evidence to support his request it is denied.

We now address the merits of the Petitioner’s appeal. Petitioner cites no legal authority for his determination that the records sought are deemed to be public records. A close examination of Rule 12 reveals the absence of any provision that automatically discloses records for a respondent’s failure to comply with Rule 12.8. Constrained by language of Rule 12, the special committee cannot read a “deemed public” disclosure provision into Rule 12.8. Petitioner also alleges that OCA was not the proper custodian of the records the subject of Petitioner’s Rule 12 request. Rule 12 contemplates that judicial records requests can and will be submitted to the wrong party, Rule 12.6(f), and Rule 12 demands good faith and reasonableness in replying to requests. *See* Rule 12.1, Rule 12.4, Rule 12.6(b), and Rule 12.6(f). Petitioner sent his request to OCA General Counsel, addressed his request to “TX Courts,” and received a timely response from OCA acting as the actual respondent in the records request. Petitioner did not object to OCA’s characterization of itself as the proper custodian and sole respondent to Petitioner’s request until after the Rule 12.8(b) timeframe had passed for the identified regional presiding judge’s duty to respond. OCA reasonably interpreted Petitioner’s request to be directed to “TX Courts” *in toto* and made a good faith effort to respond to Petitioner as the sole custodian of all records sought in the request. We therefore conclude that the OCA is the actual respondent in this appeal.¹

Having resolved that OCA is the proper respondent to the request at issue, the special committee notes that Petitioner has not appealed the denial of access to information withheld by the OCA. Should Petitioner wish to appeal the denial of access by OCA, the Petitioner must inform the special committee by no later than 14 days after the date of this opinion’s issuance. Alternatively, Petitioner remains free to initiate a new Rule 12 records request to the presiding judge identified in Petitioner’s January 7, 2021 request.

¹ The special committee is aware that the appeal’s initial styling identified a presiding judge of an administrative judicial region as the respondent in this case. However, nothing in Rule 12.9 renders an appeal’s styling and OCA’s decision in labeling an appeal as determinative of an appeal’s merits.