

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 23-002

RESPONDENT: Denton County Community Supervision and Corrections Department

DATE: May 8, 2023

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chair; Judge Sid Harle; Judge Dean Rucker; Judge Susan Brown; Judge Ray Wheless

Petitioner submitted to Denton County a Public Information Act request for “[c]opies of all county records between September 15, 2023 [sic] to present that relate in any way to [a certain case number], including but not limited to those records evidencing [a defendant’s] participation in, compliance with, or non-compliance with the terms of defendant’s plea bargain agreement and/or the requirements of the First Offender Drug Program.” The request was directed to the Denton County Criminal District Attorney’s Office, Civil Division, which replied to Petitioner on behalf of the Denton County Community Supervision and Corrections Department, which the District Attorney identified as the Respondent. Respondent’s counsel wrote Petitioner to explain that the records requested fell under Rule 12 of the Rules of Judicial Administration, rather than the Public Information Act, and to assert Rule 12.5(a) (Judicial Work Product and Drafts) and 12.5(i) (Information Confidential Under Other Law) exemptions to records disclosure. In a timely appeal of the denial of access to the records, Petitioner contested Respondent’s reliance on Rule 12.5(a) to justify the records withholding. Petitioner requested expedited review of the appeal and we have issued the decision without delay.

Rule 12 governs access to judicial records. A “judicial record” is one “made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function, regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record.” Rule 12.2(d).

We have previously concluded that “records related to a probationer in a case file maintained by a probation officer who supervises probationers are records that are created, produced or filed in connection with criminal cases that have been before the court which placed the probationer under community supervision.” *See* Rule 12 Decision Nos. 16-016, 16-024; *see also* Rule 12 Decision No. 00-003.

Petitioner’s request to Respondent is one for records “that relate in any way” to a certain defendant’s case number. The records requested by Petitioner are related to a defendant-probationer and are in a case file maintained by Respondent. Accordingly, they are not judicial records as defined by Rule 12. Because we hold that the records are not judicial records under Rule 12, we need not consider Respondent’s exemption claims.

Because the records at issue are not judicial records under Rule 12, we can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.