

Before the Presiding Judges of the Administrative Judicial Regions

Directive Regarding Petitions for Access to Case Records

TO: Administrative Director, Office of Court Administration

DATE: October 13, 2017

SPECIAL COMMITTEE: Judge Mary Murphy, Judge Olen Underwood, Judge Billy Ray Stubblefield, Judge Sid Harle, Judge Missy Medary, Judge Stephen B. Ables, Judge Dean Rucker, Judge David L. Evans, Judge Kelly G. Moore

Rule 12.9 of the Rules of Judicial Administration provides that a person who is denied access to a judicial record may appeal the denial by filing a petition for review with the administrative director of the Office of Court Administration (“OCA”). Rule 12.2(d) defines a judicial record as one made or maintained by or for a court in its regular course of business but not pertaining to its adjudicative function. “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.”

Many of the petitions for review filed with OCA have concerned the denial of access to records pertaining to a court’s adjudicative function. *See, for example*, Rule 12 Decisions 00-001, 00-003, 01-003, 02-002, 02-005, 03-003, 03-004, 12-001, 12-006, 13-101, 14-005, and 15-003. Such records are not judicial records covered by Rule 12; they are case records. Access to case records is governed by laws other than Rule 12 or the Public Information Act. The presiding judges of the administrative judicial regions have no authority to review disputes regarding access to case records.

Accordingly, we direct the administrative director of OCA to proceed as follows when that office receives a petition for access to records that appear to be case records. OCA will send a copy of this directive to the petitioner and the respondent, with a cover letter explaining that the petition appears to be for access to case records that are not covered by Rule 12 and that it will be referred to a special committee selected by the presiding judges to review petitions for relief from denial of access to records that appear to be case records. If the petitioner disagrees with OCA’s determination that the petitioner is seeking access to case records rather than judicial records, the petitioner may send further correspondence explaining why the records are judicial records to the administrative director within fourteen days of OCA’s transmittal of this directive and the information will be provided to the special committee. If the special committee confirms that the petition concerns the denial of access to case records, the petition will be dismissed and OCA will notify the petitioner and respondent of the dismissal. If the special committee concludes that the petition concerns the denial of access to judicial records, then OCA will proceed in accordance with Rule 12.9(d)-(m).