

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 19-025

RESPONDENT: City of Schertz Municipal Court

DATE: February 4, 2020

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Missy Medary; Judge Dean Rucker; Judge David L. Evans; Judge Kelly G. Moore

Petitioner requested from the City of Schertz three categories of records related to traffic stops in the community. The City provided records responsive to two of the requested categories and referred Petitioner's request for the third category of records, records that would "show the gross income generated from traffic related stops conducted by the Schertz Police Department" in a specific area, to the City of Schertz Municipal Court (the "Court"). Based on the Court's input, the City denied Petitioner's request noting that the records he requested were judicial records that were not subject to release under the Public Information Act. Petitioner then filed this appeal and requested an expedited review. We did not grant Petitioner's request for expedited review.

We note that the City responded to this notice of appeal.¹ The City maintains that the records at issue in this appeal are "judicial records" that are not subject to the requirements of the Public Information Act (the "Act") because they are maintained by the Court in its regular course of business but do not pertain to the Court's adjudicative function. Relying on this analysis, the City requests that we opine that the responsive records are excepted from disclosure under the Act. We agree that the responsive records fall within the Rule 12 definition of "judicial records."² However, our authority under Rule 12 is limited to determining whether requested judicial records should be made available to petitioners under Rule 12. *See* Rule 12.9. Thus, we will only address this issue.

We first address the form of the request. Rule 12.6(a) requires that requests for records be sent to the records custodian. In the case of a court with one judge, the records custodian is the judge of the court. *See* Rule 12.2(e)(1). Thus, Petitioner should have sent his request for the last category of records to the judge of the Court, not to the City of Schertz. However, because the City consulted with the judge of the Court in its response to Petitioner's request, the Court has not raised any objections regarding the delivery of the request, and the City has provided the responsive records for our review, rather than require the Petitioner to resubmit his request to the judge of the Court and file another appeal, we have reviewed the submitted responsive records. This approach is

¹ The City received and, in consultation with the Schertz Municipal Court, denied Petitioner's request asserting that the requested records are judicial records maintained by the Schertz Municipal Court. Accordingly, the Office of Court Administration provided notice of this appeal to the Schertz Municipal Court, and the Schertz Municipal Court, not the City, is the respondent in this appeal.

² A "judicial record" is defined by Rule 12.2(d) as a "record 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.

consistent with the purpose of Rule 12's purpose to provide public access to judicial records and its direction that it be liberally construed to achieve its purpose. *See* Rule 12.1.

The City, in consultation with the Court, asserts that the records at issue are judicial records as defined by Rule 12 because they are maintained by the Court in its regular course of business and do not pertain to its adjudicative function. Judicial records are open to the public unless they are exempt from disclosure under Rule 12.5. Neither the Court nor the City has raised any exemptions from disclosure under Rule 12.5 as a basis for withholding the responsive records and, based on our review of the records, we are unable to conclude that any of the Rule 12.5 exemptions apply. Accordingly, the petition is granted.