

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 26-004

RESPONDENT: Presiding Judge, First Administrative Judicial Region

DATE: April 29, 2026

SPECIAL COMMITTEE: Judge David L. Evans, Chairman; Judge Dib Waldrip; Judge Sid Harle; Judge Missy Medary; Judge Alfonso Charles

Petitioner requested from the Office of Court Administration (OCA) a variety of records “related to the administration and monitoring of the eFile Texas (EFM) system, the Statewide Court Management System (CMS), and any regional administrative ‘dashboards’ or alert systems.” On February 11, following an initial exchange and disclosure of materials by OCA, Petitioner clarified its request in an attempt to uncover any records “of the administrative infrastructure used to aggregate [Petitioner’s] filings.” In response to the request, OCA informed Petitioner that it was not the custodian of following records sought by Petitioner:

- “Any internal tracking spreadsheets, ‘watchlists,’ or ‘hot lists’ maintained by the First Administrative Judicial Region . . . that list [Petitioner’s] name alongside a summary of active or historical litigation”; and
- “[I]nternal administrative communications,” including “text messages (SMS) sent to received by [Respondent] from May 1, 2021, to the present, containing the search term ‘[Petitioner’s name].’”

To comply with Rule 12.6(f), OCA copied Respondent on the reply message sent to Petitioner; however, the request referrals appeared in OCA’s embedded replies to Petitioner’s requests contained within the email, rather than in a highlighted callout at the top of the email or in a standalone message.

On March 11, Petitioner began filing petitions for review linked to requests it had submitted to purported judicial records custodians. This included a March 11 petition for review (the “First Petition”) challenging a “de facto denial” of the OCA-referred requests because Petitioner had not received a reply from Respondent.¹ Then, on March 17, Petitioner submitted another petition for review (the “Second Petition”) related to the request OCA referred to Respondent. Unlike the First Petition, the Second Petition explained that Petitioner’s “underlying request” sought administrative records related to a certain case, which included “administrative infrastructure and system configuration records” — specifically “audit logs, metadata, and SMS communications regarding filing ‘Review Queues.’” Respondent, according to Petitioner, had “provided no records, no written denial, and no claim of exemption” connected to the records. In two separate replies to the petition, Respondent explained to the special committee that Petitioner’s frequent Rule 12 requests often conflated purported records custodians and could be confusing, but that there were

¹ Petitioner’s First Petition encompassed requests submitted to both Respondent and OCA. The portion of the First Petition applicable to OCA was considered in Rule 12 Decision No. 26-003.

no records responsive to Petitioner's requests as outlined in the petitions for review. This included Petitioner's restated request for text messages that included its name (and as covered by the second bullet listed in the factual recitation above).

If a requested record does not exist, a respondent's inability to produce a requested record is not a denial of access to judicial records under Rule 12. *See* Rule 12 Dec. Nos. 17-015, 23-003, 23-006, 23-010, 25-007. Respondent has informed the special committee that it lacks records responsive to Petitioner's request as they appear in Petitioner's *petitions for review*.² There being no records responsive to these requests, the appeal is dismissed as to these requests.

What remains unresolved, though, is the status of the request listed in the first bullet of the factual recitation above. Although OCA referred the requests outlined at the top of this opinion by way of email copy, the special committee is otherwise unable to determine whether Respondent saw or replied to the first bulleted request because it was located with an embedded email reply. In the interest of administrative efficiency we give Respondent leave, consistent with the timeframe contemplated by Rule 12.6(b) and 12.8(b), to submit to both the Petitioner and the special committee a response to the embedded February 11 request copied to Respondent by OCA (and as listed in the first bullet of the factual recitation above). Should Respondent indicate that it has no records responsive to the remaining request, the remainder of the appeal is dismissed.

² Petitioner's petitions for review have, in the body of the petition, reframed and even modified the records requests at issue, which has made reply tracing a challenge even for the special committee.