

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 26-019

RESPONDENT: Presiding Judge, First Administrative Judicial Region

DATE: September 16, 2026

SPECIAL COMMITTEE: Judge David Evans, Chair; Judge Robert Trapp; Judge Sid Harle; Judge Ana Estevez; Judge Alfonso Charles

On June 25, 2026, Petitioner requested from Respondent seven categories of records concerning a court of inquiry, communications between a certain attorney and the Collin County District Attorney and a certain attorney and Petitioner, and records related to court-appointed attorney issues.¹ Petitioner's request was emailed to Respondent's assistant, rather than Respondent directly.² Having not received a response from Respondent, Petitioner filed a petition for review. Respondent submitted a reply to the petition informing that special committee that Respondent had written Petitioner letting it know that Respondent was in receipt of the June 25 request. The response also pointed out that Rule 12.6(a) required a request to be sent to the records custodian and not to a court clerk or other agent for the records custodian. Respondent then provided Petitioner with an email address for submitting Rule 12 requests and then responded to Petitioner's request. Respondent informed Petitioner that it lacked records responsive to the request in every records category, other than the email record Petitioner sent Respondent's assistant on June 25. In a supplemental response to Respondent's reply, Petitioner challenged Respondent's answers to the request.

As an initial matter, we address Petitioner's complaints regarding Respondent's failure to timely respond to the June 25 request. The Rule 12 request submitted to Respondent was transmitted via email sent to Respondent's assistant. Rule 12.6(a) requires that a request for records be sent to the records custodian, not a court clerk or other agent for the judge. *See* Rule 12.6(a). A records custodian's obligation to comply with Rule 12 is triggered upon actual receipt of a request, not when the request is sent and regardless of whether the sender believes it was successfully delivered. *See, e.g.,* Rule 12.6(b), and Rule 12 Dec. Nos. 21-010, 23-004, 24-002, 25-021, 26-007, 26-008. Moreover, a request sent to someone other than the records custodian does not trigger the custodian's obligation to reply, even if the request is addressed to the custodian. *See* Rule 12 Dec.

¹ Petitioner's June 25 request contains seven enumerated categories of records sought. Below the enumerated request, Petitioner explains why it seeks "Requests 8-10." The special committee cannot locate corresponding requests in Petitioner's June 25 request to Judge Wheeler for these items. Respondent answered two separate requests in its July response to Petitioner: one for the June 25 request and one for a July 22 request. Because "Request 8-10" items from the June 25 letter and the July 22 request are not included in the petition for review, we do not address those here.

² Petitioner's Rule 12 request indicates that it was transmitted "via email and regular mail." Petitioner's petition for review states that the request was transmitted by email, but does not mention mail transfer nor include proof that the request was sent through the mail.

Nos. 21-010, 24-002. Petitioner argues that the single point of contact listed on Respondent's website somehow redirects the thrust of Rule 12.6(a), which requires a request to be sent to the records custodian and not to a court clerk or other agent for the records custodian. Rather than inquire where the Rule 12 request should be directed, Petitioner's counsel assumed the email address would suffice for the emailed request. Nonetheless, Rule 12.6(a) remains quite clear: a records request is to be sent to the records custodian. While it remains unclear whether Petitioner's mailed request was actually received, it is very clear that the email was sent to someone other than the records custodian.

Respondent stated in its reply to the petition that it lacked responsive records for the categories of records requested, outside of those recently sent to Respondent by Petitioner. 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 and the Rule 12 appeals process does not apply to the request. *See, e.g.*, Rule 12 Dec. Nos. 17-015, 17-020, 23-003, 23-006, 23-010, 25-007, 26-003, 26-004. It is unclear to the special committee whether Respondent disclosed the records identified as responsive to the request. Accordingly, we grant Respondent 10 working days from the date of this opinion to inform the special committee whether Respondent has disclosed the records identified as responsive to the request. Should Respondent confirm it has released the responsive judicial records, the petition is dismissed. Should Respondent confirm it has not released the records, it should release them without delay or, alternatively, provide to the special committee any objection to records production.