

Before the Presiding Judges of the Administrative Judicial Regions Per Curiam Rule 12 Decision

APPEAL NO.: 19-018

RESPONDENT: Fifth District Court of Appeals

DATE: January 8, 2020

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Olen Underwood;
Judge Billy Ray Stubblefield; Judge Alfonso Charles; Judge
Susan Brown

On August 20, 2019, Petitioner requested the following from Respondent: 1) personnel records, phone records, and building access records of one of Respondent's employees, 2) records related to a specific internship program, 3) records related to the expansion of Respondent's offices and renovation of a courtroom, 4) information submitted to the Human Rights Commission, and 5) calendars, agendas, and minutes of Respondent's administrative conferences for a specific time period. Respondent mailed Petitioner records responsive to numbers 2 and 3 and provided redacted personnel records responsive to number 1. Respondent denied Petitioner access to the records responsive to number 5 and informed Petitioner that it did not have phone records, building access code records, or information submitted to the Human Rights Commission.

Petitioner is appealing Respondent's denial of access to the phone records described in number 1 above and the records responsive to number 5. Petitioner also asserts that Respondent's letter did not include the records Respondent noted were being provided to Petitioner in response to her request.¹ Additionally, Petitioner raises issues regarding Respondent's delivery of records that were the subject of a prior Rule 12 appeal submitted by Petitioner.²

We first address Petitioner's appeal regarding the phone records related to a specific court employee. Petitioner asserts that Respondent should have telephone records responsive to her request. Respondent has informed this special committee that it does not maintain phone records that reflect whether a specific person has made a call. A records custodian is not required to create a document in response to a request. *See* Rule 12.4(a)(1) and Rule 12 Decision Nos. 16-012 and 18-001. Therefore, Respondent has no further obligation regarding this request.

We next address the withholding of records related to the Respondent's administrative conferences. Respondent asserts that any records related to Respondent's administrative conferences

¹ In its response to this appeal, Respondent asserts that the responsive records were mailed to Petitioner. Noting that Respondent wishes to avoid further issues regarding this point, Respondent also included copies of the responsive documents in the response to this appeal and copied the Petitioner. Therefore, no further review of this issue is required.

² The issues raised by Petitioner regarding the records responsive to her prior Rule 12 appeal are not pertinent to this appeal; therefore, they will not be addressed in this decision.

are exempt under Rule 12.5(f) because they are records “relating to internal deliberations of a court or judicial agency, or among judicial officers...on matters of court or judicial administration.” Petitioner argues that “records containing information about administrative *decisions* are not exempt” under Rule 12.5(f).

Rule 12.5(f) exempts from disclosure “any record *relating* to internal deliberations of a court or judicial agency, or among judicial officers or members of a judicial agency, on matters of court or judicial administration.” (Emphasis added.) “The United States Supreme Court and the Texas Supreme Court have determined that the ordinary meaning of ‘relating to’ is ‘having a connection with or reference to’ and that this is a broad term.” *Graves v. Mack*, 246 S.W.3d 704, 709 (Tex. App. – Houston [14th Dist.] 2007, no pet.) (citations omitted). Based on this broad interpretation and prior Rule 12 decisions³ interpreting the meaning of the words “relating to” provided in other Rule 12 exemptions, we agree that the requested records are exempt from disclosure under Rule 12.5(f).

Accordingly, the appeal is denied.

³ See Rule 12 Decision Nos. 17-011 and 17-024.