

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 25-004

RESPONDENT: Montgomery County Adult Probation

DATE: April 23, 2025

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge David Evans; Judge Ana Estevez; Judge Susan Brown; Judge Ray Wheless

Petitioner sent a request to Respondent seeking records related to Respondent's employees, procedures and protocols when a probationer tests positive, test types, and test results. Respondent provided responsive records for only one of these categories of records, and Petitioner subsequently filed a timely appeal of the denial of access to the remaining three categories of records. After filing the appeal, Petitioner appeared at Respondent's office and Respondent provided to Petitioner two more categories of the requested records. For the remaining category of records — Respondent's procedures or protocols when a probationer tests positive — the Respondent in its reply to the petition asserted that the records were not judicial records and that they therefore were not subject to disclosure under Rule 12. Respondent alternatively asserted that, even if the records were judicial records, they were exempt from disclosure under Rule 12.5(a) (*Judicial Work Product and Drafts*) and Rule 12.5(f) (*Internal Deliberations on Court or Judicial Administration Matters*). Respondent provided for the special committee's *in camera* review the withheld case supervision policy and procedures document in question.

We first address whether Respondent's procedures and protocols records are subject to Rule 12. A record is subject to Rule 12 if it is one that is "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" (emphasis added.) *See* Rule 12.2(d).

We have issued several decisions concluding that records related to a court's internal operating procedures or administration of cases pertain to a court's adjudicative function. *See* Rule 12 Decision Nos. 09-006, 17-018, 19-006, 19-026, 22-013. We have reviewed Respondent's withheld case supervision policy and procedures record, and we conclude the internal operating procedures record at issue pertains to a court's adjudicative function because the record details the supervision and oversight of persons who have been before the court in connection with a case. The Rule 12 definition of "judicial record" excludes any record that pertains to the court's adjudicative function, regardless of whether that function relates to a specific case, and the record here clearly relates to the supervision of a person who has been before a court.

Accordingly, we conclude that the remaining record at issue in this appeal is not a "judicial record" under Rule 12 and we are without authority to grant the petition in whole or in part or to sustain the denial of access to the requested record. Because the record is not a judicial record, we need not address Respondent's exemption claims and the appeal is dismissed.