Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 26-005

RESPONDENT: Harris County Justice of the Peace, Pct. 4, Pl. 1

DATE: May 20, 2026

SPECIAL COMMITTEE: Judge David L. Evans, Chair; Judge Ray Wheless; Judge Robert Trapp; Judge Kirsten Cohoon; Judge Ana Estevez

On December 17, Petitioner transmitted a records request to Respondent seeking "access to certain court records and communications" (hereafter the "First Request"). Petitioner noted that it was familiar with Rule 12 of the Texas Rules of Judicial Administration and the accessibility of "judicial records" under Rule 12. Petitioner acknowledged that any record "'created, produced, or filed in connection with any matter that is or has been before a court' is *not* considered a judicial record under Rule 12" (emphasis in original). Petitioner then stated that, "[f]or clarity, items (1) and (2" [of the request] pertain specifically to [a certain civil case] (under [Petitioner's] jurisdiction) "and that "[i]tems (3), (4,), and (5) are broader requests pertaining to all civil cases handled in [Petitioner's] court." At a categorical level, the First Request sought the following records:

- Item 1: Communications with Defendant in [Certain Civil Case];
- Item 2: Communications with Defendant's Attorney in [Certain Civil Case];
- Item 3: List of Cases with Summary Judgment Motions (All Civil Cases);
- Item 4: Court's Responses to Summary Judgment Motions; and
- Item 5: List of Cases with Jury Trial Requests (All Civil Cases).

On January 26, having not received a response from Respondent, Petitioner wrote a follow-up to its First Request. On February 6, Respondent addressed the First Request by citing Rule 12.4(a), which in part provides that Rule 12 does not require "a court, judicial agency, or records custodian" to "create a record, other than to print information stored in a computer[.]" *See* Rule 12.4(a)(1). Respondent also informed Petitioner that Rule 12 does not require a court to answer questions, create information, or conduct research in responding to requests, citing Rule 12 Decision No. 17-002. Respondent further explained that Rule 12 authorized a records custodian to deny a request in connection with burdensome requests and that Petitioner acknowledged in the First Request that records that pertain to the adjudicative function were not subject to disclosure under Rule 12. Having laid out the Rule 12 principles governing disclosure, Respondent nonetheless disclosed records it found responsive to Items 1 and 2 of the First Request. As for Items 3, 4, and 5, Respondent stated it found the requests lacked a time period for coverage, and because of this that it was denying the requests on the ground that they was overly broad and burdensome. Respondent then invited Petitioner to narrow the scope of the requests for Items 3, 4, and 5, writing that when it had a narrowed scope it could determine whether records could be produced. In a February 13 response, Petitioner gave Respondent a timeframe for Items 3, 4, and 5: January 1, 2015 through December 31, 2025. Petitioner also challenged the disclosure made for

Items 1 and 2 as "inadequate / incomplete."

Having not received a response to its February 13 message, Petitioner wrote Respondent again on March 1 to follow up on the First Request. Petitioner included with its March 1 message a separate request (the "Second Request"), distinct from the original request. The Second Request was split into two categories: those related to a specific case (Items 1 and 2 below), and general judicial records (Items 3 and 4 below)

- Item 1: Court's Response to Inquiry (April 5, 2025 Email) [in Certain Civil Case];
- Item 2: Disposition of Defendant's IIED Counterclaim [in Certain Civil Case];
- Item 3: Respondent's Oath of Office; and
- Item 4: Records of Appointment/Swearing-In.

On March 16, Petitioner filed a petition for review for both the First Request and Second Request. As for the First Request, Petitioner complained that the requests Items 3, 4, and 5 "remained opened and pending as to all unproduced items" and that it "had not withdrawn or narrowed the request." And as for the Second Request, Petitioner reasoned that the 14-day reply window for Respondent to answer had expired "on approximately March 15" and that as of the date of the petition's filing the Petitioner had not received a response on its Items 1, 2, 3, and 4. Petitioner requested expedited review of its petition.

In its reply to the petition, Respondent explained its handling of the First and Second Requests. As an initial matter, Respondent acknowledged that it regrettably did not timely reply to the First Request. With regard to Items 1 and 2, Respondent stated that it had produced records responsive to the request and that for Items 3, 4, and 5 Respondent had informed Petitioner that it found the requests to be overly broad and burdensome. Respondent further noted that Petitioner had not in fact narrowed its request for Items 3, 4, and 5, because the timeframe given by Petitioner (January 1, 2015 to December 31, 2025) spanned almost the entirety of Respondent's tenure on the bench. Because Respondent had not narrowed its request scope, no further response was given to the First Request. Respondent then turned its attention to the Second Request, an answer for which would have been due on March 16, 2026. Respondent explained that, prior to responding to Petitioner, Petitioner advanced "as a professional courtesy" a copy of the March 15 petition for review it had filed with the Office of Court Administration covering both the First and Second Requests. Because Petitioner had alleged "non-responsiveness" to the Second Request in the petition for review, Respondent opted to respond to Petitioner through the appeal process.

In its reply to the petition, Respondent reiterated that Petitioner had failed to make a good faith effort to narrow Items 3, 4, and 5 of the First Request, even after being given the opportunity to do so. It further argued that it lacked the list documents Petitioner sought and that it did not, under Rule 12, have to query a report that would produce the exact information requested. Nonetheless, it was sending Petitioner reports it compiled in an attempt to satisfy the remainder of the First Request. As for the Second Request, Respondent contended that Items 1 and 2 related to the court's adjudicative function and, although it urged the special committee to dismiss this portion of the appeal, Respondent informed the special committee that it had since discovered records that could be responsive to this portion of the Second Request and it was disclosing those records to Petitioner in an attempt to satisfy the request. As for Items 3 and 4 of the Second Request, Respondent argued that the appeal was filed prematurely and should be dismissed. Nonetheless, it was providing Petitioner with Anti-Bribery Statement and Oath of Office records to satisfy Items 3 and 4 of the Second Request. As for Item 5, Respondent stated it lacked responsive records and that any existing records would be held by the Harris County

Commissioners Court. Petitioner submitted a response to Respondent's reply arguing, among other things, that the petition as connected to the Second Request was not premature and that First Request Items 3, 4, 5 were subject to generation and disclosure.

Petitioner's First Request

We take up the First Request and the Second Request in turn. Petitioner alleges Respondent's response to the First Request was not timely, and that the disclosures it later made to the First Request were incomplete. To assess these claims, we must lay out the governing judicial records access rules and principles implicated in the petition for review. As we have stated in many opinions, the threshold issue in a Rule 12 appeal is whether the requested records are "judicial records," which are defined by Rule 12.2(d):

> "Judicial record means 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. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record."

Not all "judicial records" are subject to disclosure. *See* Rule 12.3 (Applicability), Rule 12.5 (Exemptions from Disclosure). Moreover, Rule 12 does not require a court, judicial agency, or records custodian to create a record "other than to print information stored in a computer." *See* Rule 12.4(a). Under Rule 12.6(a) and Rule 12.8(b), a respondent has up to 14 days after receipt of a request to act on a judicial records request – either through disclosing records, sending a notice of future disclosure, or denying access to the request. *See* Rule 12.6(a), Rule 12.8(b). So, to the extent there is a timeliness issue in existence for the First Request, the issue turns on whether the records in question are "judicial records" to which Petitioner is granted access under Rule 12.

Items 1 and 2 of the First Request appear to be, on their face, "case records" — those records "created, produced, or filed in connection with any matter that is or has been before a court." *See, e.g.*, Rule 12.2(d), Rule 12 Dec. No. 24-001. This status is confirmed by Respondent's reply to the First Request, where Respondent informed Petitioner that "[a]s to [I]tems 1 and 2 of your request, the only recorded communications between court staff and/or the Judge and the defendant and/or defense counsel . . . were copied [to Petitioner] or they were *added to the court's case file*" (emphasis added). Facially and substantively, then, Items 1 and 2 of the First Request are not judicial records, they are case records. And because they are case records, Rule 12 does not apply to Items 1 and 2.

Items 3, 4, and 5 of the First Request requested a compilation of records for *all* civil cases with "summary judgment motions," for the court's responses to those motions[1], and for *all* civil cases in which a jury was requested. Respondent's response to Petitioner (and later its reply to the petition) reveal that Respondent did not possess these sorts of records as a compilation, which led Respondent to ask Petitioner to narrow its request so that it might offer Petitioner something to satisfy the request.[2] Indeed, in an attempt to "put the matter to rest," Respondent generated reports

[1] Item 4 of the Second Request straddles the line between a request for a compilation and a request for case records, as it indicates the responsive records could be provided "as a list" or in the form of "records or docket notations." For consistency, we treat Item 4 as a compilation.

[2] We note separately that we have previously concluded that a sweeping request for records sought in a 6-day timeframe (Rule 12 Dec. No. 18-001) and a 16-day timeframe (Rule 12 Dec. No. 23-007) would "substantially and

it believed might be responsive to Petitioner's request and later disclosed those report to Petitioner. As we have observed many times, 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. Moreover, a judicial records custodian is not required to create records that do not exist. *See, e.g.*, Rule 12.4(a)(1) Rule 12 Dec. Nos. 24-001, 24-016, 25-003. Stated another way, a request to create a record sets the request outside the scope of Rule 12. It is on this point that we directly address Petitioner's reply to Respondent's response and its attempt to shoehorn the concept of compilation within the "other than to print information stored in a computer" exception to records creation. Petitioner reasons that the "creation exclusion" does not apply to the act of searching a "computerized repository of case information" and printing the results. We disagree. The act of drawing open a computer and printing pre-existing, available information is not the same as manipulative querying and compilation ("data extraction" in Petitioner's words), nor is the mining of a case management system the same as "click and print." In short, Petitioner's construction of Rule 12.4's records creation limitation would flip it to require precisely what it does not require — document creation — rather than the retrieval and disclosure of pre-existing records, and we decline to adopt this construction of Rule 12.4(a)(1).

Although Respondent acknowledges in its reply to the petition that its answer to the First Request was untimely, a review of Items 1 and 2 reveals that Rule 12 is not applicable to these request Items because they are not "judicial records," and a review of Items 3, 4, and 5 reveals that that they are requests not for pre-existing documents in Respondent's possession but, instead, created documents. In sum, because Rule 12 is either inapplicable or a disclosure is not mandated by Rule 12, Respondent's reply to the petition is not untimely under Rule 12.6(a) nor 12.8(b). And more decisively, because the request is in part for case records and because the Respondent does not have an obligation to produce records, the special committee can neither grant the petition (in whole or in part) nor sustain any denial of access to First Request and the petition is dismissed as to the First Request.

Petitioner's Second Request

We next address Petitioner's Second Request, which covered aspects of the First Request and requested additional items from Respondent. Petitioner submitted the Second Request to Respondent on Sunday, March 1, 2026, and filed its petition for review on Sunday, March 15, 2026, on the grounds that it had not received a response to the Second Request. In its response to the petition, Respondent argues that its timeframe for a response should have expired on Monday, March 16, and that Petitioner's petition as to the Second Request is premature. Respondent further explained that, once it learned Petitioner intended to a petition for review, Respondent opted to provide any documents responsive to the Second Request through the appeals process for both the special committee's and petitioner's benefit.

As stated above, the threshold issue in a Rule 12 appeal is whether the requested records are "judicial records" as defined by Rule 12.2(d). Of importance here is the following language in Rule 12.2(d): "A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record." By Petitioner's own language, Items 1 and 2 of the Second Request are case-specific requests, seeking Respondent's response to a party regarding document submission as well as any records reflecting Respondent's "disposition or

unreasonably impede the routine operations of the court." Petitioner narrowed its request timeframe, upon Respondent's invitation, from unbounded ("all") to "January 1, 2025 to December 31, 2025," a span of over 4,000 days. We disagree with Petitioner's assertion that it substantively narrowed its request.

administrative handling of Defendant's Counterclaim for Intentional Infliction of Emotional Distress in [a certain case]." Items 1 and 2, then, are not judicial records, they are case records.

Items 3 and 4 of the Second Request, which seek Respondent's oath of office and records of Respondent's assumption of the bench, respectively, are presumptively "judicial records" and would be subject to disclosure. Through its reply to the petition, Respondent disclosed to Petitioner signed anti-bribery statements and oath of office records. Respondent then explained that any other records responsive to the request would be maintained by the Harris County Commissioners Court, and not Respondent. When judicial records responsive to a Rule 12 request are provided to a requestor, Rule 12 is considered satisfied. *See* Rule 12 Dec. Nos. 18-004, 23-004, 23-006, 24-003, 24-015. And as we noted 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. Because Respondent has disclosed responsive records and alerted Petitioner that it lacks any further records responsive to the Second Request, there are no remaining Rule 12 disclosure issues to resolve and we decline to address Respondent's premature petition argument.[3] The petition as it relates to the Second Request is denied.

Conclusion

For the reasons discussed above, the petition for review as to the First Request is dismissed and the petition as it relates to the Second Request is denied. Accordingly, the appeal is dismissed.

[3] Rule 12.6(b) provides that a records custodian has "not more than 14 days" after "actual receipt" of a request to respond to the request. *See* Rule 12.6(b). Once Respondent knew Petitioner was filing a petition for review, it opted to disclose documents during the appeals process rather than within a disputed computation timeline. As a best practice matter, the special committee recommends that a respondent disclose records in alignment with the Rule 12.6(b) timeline, even if disputed, rather than wait until the appeals process for the disclosure.