



Re: Request for Information Regarding Rule 12 Appeal No. 17-010

1 message

Thu, Apr 25, 2019 at 3:46 PM

To: David Slayton <David.Slayton@txcourts.gov>, nathan.hecht@txcourts.gov

Mr. Hecht,

As a result of a public records request, I received your email address from Mena Ramon. I am writing your office to file a complaint against the Administrative Director of the OAC, Mr. David Slayton, Either Mr. Slayton doesn't understand directives that are issued or his personal biases are interfering with his duties.

With the Harris County Clerk (HCC), I filed a records request for a post-it-note that was filed in my case by the judge's administrator that stated "Why was this filed in the court". As of today, HCC has neither responded to my request nor have they sent me the records. I filed an appeal with the OAC and they said it wasn't a judicial record under Rule 12. Since this ruling, the courts have issued a directive (attached) when someone is requesting a case record which basically requires the Mr. Slayton send a copy of my complaint along with the directive to myself and the respondent (HCC) and then a special committee makes a determination. I have requested that Mr. Slayton process my request under this directive but he states that he cannot do this because my requests seeks a case record. I do not follow his logic as he saying I'm looking for a case record but the directive for case records doesn't apply to my case record request. Please put someone in office who can uphold the directives issued by your colleagues.

Regards,

----- Forwarded message -----

From: **Mena Ramon** <Mena.Ramon@txcourts.gov>

Date: Thu, Apr 25, 2019 at 2:14 PM

Subject: RE: Request for Information Regarding Rule 12 Appeal No. 17-010

Chief Justice Nathan Hecht's email address is: nathan.hecht@txcourts.gov.

Sincerely,

Mena Ramon

On Tue, Apr 23, 2019 at 3:30 PM

Mr. Slayton,

I do not follow your logic. The directive outlines what the OAC does when someone requests a **case record**. Your email specifies I am seeking a case record. Since I'm not covered by Rule 12 then I am covered by this directive as it states "we direct the administrative director of OCA to proceed as follows when that office receives a petition for access to records that appear to be **case records**. OCA will send a copy of this directive to the petitioner and the respondent, with a cover letter explaining that the petition appears to be for access to **case records** that are **not covered by Rule 12**". Please advise as to how this directive doesn't impact my request for court records as I do not understand your logic.

Regards

On Tue, Apr 23, 2019 at 3:14 PM David Slayton <David.Slayton@txcourts.gov> wrote:

This is in response to the April 21, 2019 emails you sent to me and Ms. Ramon requesting that this Office issue a "ruling based on the new directive" (case records directive issued 10-13-2017) in your 2017 appeal (Appeal No. 17-010) of the Harris County Clerk's failure to respond to your request for records. A decision in your appeal was issued on September 6, 2017, and is final. The special committee concluded that it had no authority in your case because the records at issue were case records that were not subject to Rule 12. The new directive has no impact on your case.

Sincerely,
David Slayton

Date: April 22, 2019 at 11:41:51 AM CDT
To: David.Slayton@txcourts.gov
Subject: Fwd: Request for Information Regarding Rule 12 Appeal No. 17-010

Mr. Slayton,

I am requesting a ruling to my case records request. I have attached the directive issued by your department that states "*we direct the administrative director of OCA to proceed as follows when that office receives a petition for access to records that appear to be case records. OCA will send a copy of this directive to the petitioner and the respondent, with a cover letter explaining that the petition appears to be for access to case records that are not covered by Rule 12 and that it will be referred to a special committee selected by the presiding judges to review petitions for relief from denial of access to records that appear to be case records*". Further, unlike the last time, I am requesting that your group follow the directive and any other applicable laws or statutes versus the last time when your employee followed the rules that she felt like following.

Regards,

----- Forwarded message -----

Date: Sun, Apr 21, 2019 at 10:40 AM
Subject: Re: Request for Information Regarding Rule 12 Appeal No. 17-010
To: Mena Ramon <Mena.Ramon@txcourts.gov>

Mr. Ramon,

You claim that what I am requesting isn't a judicial record therefore it must be a case record. Since you sent me your bogus decision that wasn't reviewed by the judges in your "ruling", your office has issued a new directive for case records. I am requesting that you issue a ruling based on the new directive. As of today, the Clerk has never responded so my request still has not been neither responded to nor denied.

I have attached the directive. I am also requesting that you follow the rules of procedure unlike the last time.

Regards

On Sat, Sep 23, 2017 at 10:15 AM

Pursuant to Rule 12.9(f), I was suppose to be notified of the members of the committee. I'm requesting a copy of the notification. Knowing the "special committee" is just you, I'm confident you will not have a record and you can't get back to me so I can add it to my appeal and to my bar complaint against you for your failure to follow numerous rules and then trying to portray this "decision" as a decision by a "special committee" when in fact you just typed out the decision on your own on September 9th, 2017.

(f) Formation of Special Committee

Upon receiving notice under Rule 12.9(d), the presiding judges must refer the petition to a special committee of not less than five of the presiding judges for review. The presiding judges must notify the Administrative Director, the petitioner, and the records custodian of the names of the judges selected to serve on the committee.

On Tue, Sep 19, 2017 at 2:54 PM, Mena Ramon <Mena.Ramon@txcourts.gov> wrote:

This is in response to the requests for information you submitted by email at 3:15 p.m. and 3:31 p.m. on September 8, 2017.

Sept. 8, 2017, 3:15 p.m. Email

In your 3:15 p.m. email you requested “notes, emails, papers, or cover letters that anyone on the committee generated or received with regards” to your appeal. You also requested “cover letters that were generated to the committee” and records “on how and when the committee members received” your appeal.

The records responsive to your request are related to the adjudicative function of the Rule 12 special committee assigned to your appeal (Appeal No. 17-010) and, therefore, they are not “judicial records” as defined by Rule 12.2(d), and they are not subject to Rule 12 of the Rules of Judicial Administration. The fact that a record is not subject to Rule 12 does not necessarily make it confidential or prohibit its release. However, the records you have requested are privileged attorney-client communications, records related to the committee’s deliberative process, and records subject to judicial privilege. For this reason, your request is denied. Please note that if the responsive records were subject to Rule 12, they would be exempt from disclosure under Rules 12.5 (a), (f) and (i).

Because the requested records are not subject to Rule 12, the appeals process for the denial of “judicial records” covered under Rule 12 does not apply. If you decide to appeal this denial regardless of the applicability of Rule 12, see the information provided below regarding the process to appeal the denial of judicial records under Rule 12.

Sept. 8, 2017, 3:31 p.m. Email

In your 3:31 p.m. email you also requested “the time stamp of when the file was generated in the PDF that lists the ‘decision’ of my appeal,” “the name of the person who generated the PDF file that lists the decision of my appeal,” “the software used to produce the PDF,” and “any documents or emails that the person who generated the PDF received in order to generate the PDF.”

The first three items you request (“the time stamp of when the file was generated in the PDF that lists the “decision” of my appeal,” “the name of the person who generated the PDF file that lists the decision of my appeal,” “the software used to produce the PDF”) are questions, not requests for records. However, this information can be obtained by any

person with access to our website by opening the PDF you are inquiring about from our website by clicking "Open in Acrobat" and then clicking "File" and then clicking on the "Properties" tab. From the Document Properties screen you can click on "Additional Metadata" to get a second screen with additional information. Attached is a screen shot of the information that is available for the Rule 12 Decision 17-010 PDF on our website at <http://www.txcourts.gov/open-records-policy/> when you follow the procedure I outline above. No other documents responsive to your first three requests/questions exist. Additionally, there are no documents that are responsive to your request for "documents or emails that the person who generated the PDF received in order to generate the PDF."

Rule 12 Appeal of Denial of Access to Judicial Records

Rule 12.9 provides that a person may appeal the denial of access to judicial records by filing a petition for review with the Administrative Director of the Office of Court Administration. The petition must be filed not later than 30 days after the date the petitioner receives notice of denial of access to the judicial records. The name and address of the Administrative Director of the Office of Court Administration is: David Slayton, PO Box 12066, Austin, Texas, 78711. For information regarding the required contents of a petition for review please see Rule 12.9(b) of Rule 12 of the Rules of Administration available at this link: <http://www.txcourts.gov/media/524153/rjac-rule-12.pdf>

Sincerely,

Mena Ramon

cc: Judge Steve Ables, Chairman

Special Committee - Rule 12 Decision No. 17-010

Sent: Friday, September 08, 2017 3:31 PM

To: Mena Ramon <Mena.Ramon@txcourts.gov>

Subject: Re: Request for Information Regarding Rule 12 Appeal No. 17-010

Ms Ramon,

I am also requesting the time stamp of when the file was generated in the PDF that lists the "decision" of my appeal. I am also requesting the name of the person who generated the PDF file that lists the decision of my appeal. I am also requesting the software used to produce the PDF. I am also requesting any documents or emails that the person who generated the PDF received in order to generate the PDF.

Regards

On Fri, Sep 8, 2017 at 3:15 PM,

Dear Ms. Ramon,

Thanks for your response. Your department failed to follow Rule 12.9(e):

A records custodian who denies access to a judicial record and against whom relief is sought under this section may--**within 14 days of receipt of notice from the Administrative Director**--submit a written response to the petition for review and include supporting facts and authorities in the response. The records custodian must mail a copy of the response to the petitioner. The records custodian may also submit for in camera inspection any record, or a sample of records, to which access has been denied.

Even though I'm not surprised, you never transmitted the appeal as required by Rule 12.9(e). I also suspect that the judges on your committee never even saw my complaint thus I am requesting any notes, emails, papers, or cover letters that anyone on the committee generated or received with regards to my appeal. I am also requesting an cover letters that were generated to the committee members. If you have any records on how and when the committee members received my appeal I am requesting this as well. It lists the committee members as: Judge Stephen B. Ables, Chairman; Judge Billy Ray Stubblefield; Judge Missy Medary; Judge Dean Rucker; Judge David L. Evans.

Regards

On Fri, Sep 8, 2017 at 2:36 PM, Mena Ramon <Mena.Ramon@txcourts.gov> wrote:

The following is in response to your September 6, 2017 (9:09 a.m.) email asking for a copy of the response submitted to OCA by Harris County in your Rule 12 appeal (No. 17-010) and a copy of the "mail received log" for the dates of June 3, 2017 – June 7, 2017. It is also in response to your September 6, 2017 (7:49 p.m.) email asking whether a response was received by Harris County and if a decision was issued without receiving a response. In the 7:49 p.m. email you also request copies of your appeal stamped as received by our office with the date, and "internal emails that you or anyone at the Office of Court Administration produced or received from internally or from the Texas Attorney General's Office on 9/6/2017 regarding my appeal."

Regarding your request for a copy of the response submitted by Harris County in your appeal, no such record exists because your petition was not forwarded to Harris County. Rule 12 of the Rules of Judicial Administration governs the appeal of denial of access to "judicial records." Judicial records are defined under Rule 12.2(d) as records that are "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" under Rule 12. Records that relate to court cases, like the ones at issue in your petition, are not judicial records covered by Rule 12. The regional presiding judges (which form special committees to review Rule 12 appeals) do not have the authority to issue a decision regarding a records custodian's denial of access to a record that is not a judicial record. Therefore, when a petition is received that involves the denial of access to records that are not judicial records, the Rule 12 appeal procedures do not apply and the petition is not forwarded to the custodian of records for a response. For this reason, a response was not requested from Harris County regarding your appeal and no such record exists.

As you requested, attached is a copy of your appeal with the received date stamped on it.

We do not have any records responsive to your request for “internal emails that you or anyone at the Office of Court Administration produced or received from internally or from the Texas Attorney General’s Office on 9/6/2017 regarding my appeal.”

Regarding your request for OCA’s mail log for a particular time period, OCA does not maintain a “mail log” of all mail received by the agency. OCA only logs mail that contains an invoice or payment. If you would like a copy of this log for the dates you requested, please let me know and we will provide it to you.

Sincerely,

Mena Ramon

<directive-for-case-records-10-13-17.pdf>

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