

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 00-007

RESPONDENT: Chief Justice Thomas R. Phillips

DATE: December 19, 2000

SPECIAL COMMITTEE: Judge John Ovard, Judge Olen Underwood, Judge B. B. Schraub, Judge David Peeples, Judge Darrell Hester, Judge Stephen Ables, Judge Dean Rucker, Judge Jeff Walker, Judge Kelly Moore

The applicant, a non-profit research and policy organization, requested various employment records from the Supreme Court of Texas relating to briefing attorneys employed by the court from 1993-2000. The applicant requested a waiver of any fees pursuant to Rule 12.7(b)(1). In its response to the request, the court provided the records, but charged a fee of \$118.19 “for all copies supplied, other costs and shipping.” The response did not include the contents of the notice of denial of fee waiver required by Rule 12.8(c), such as the reasons for the denial, the right to appeal, and the name and address of the administrative director of the Office of Court Administration.

The applicant filed a petition for review, complaining of the court’s failure to include the Rule 12.8(c) information in its notice of denial, and complaining of the failure to waive the court’s fees and that the copying charges were excessive. The court acknowledged in its response that it had failed to include the Rule 12.8(c) information, and will include it in any future denial.

Regarding waiver of the court’s fees, the applicant contended that the records in this case relate to a matter of public concern and that waiving the fee is in the public interest as provided by Rule 12.7(b)(1). The court responded that the language of the rule is permissive, and that the court was not required to waive the fee. We agree that the rule’s language is permissive rather than mandatory, and sustain the court’s denial of the waiver.

Regarding excessiveness of the fees, the court stated as follows:

“In total, [the applicant] was furnished 250 paper copies, and charged for five hours personnel and overhead to search copy resumes and files. All our charges were in accordance with General Service Commission guidelines.”

It is unclear from the application or response whether the applicant was provided with an invoice or with the court’s order in Misc. Docket No. 98-9120. That order provides that, in accordance with Texas Government Code §552.262 and the rules of the General Services Commission (Tex. Admin. Code §111.63), standard paper copies of documents are \$0.10 per page, and personnel, overhead, and document retrieval charges are as provided by §111.63(c)-(j). Under that section of the Code, the charge for personnel costs for processing a request of 50 pages or more is \$15 an hour; the overhead charge is

computed at 20% of the personnel costs; and necessary postal and shipping charges may be added. The applicant has not demonstrated that the court failed to comply with its rules or those of the GSC, or that the charges were excessive under those rules. Accordingly, we sustain the court's denial of reduction of the cost assessment.