

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

GEORGE SKATZES,

Petitioner,

:

Case No. 3:09-cv-289

:

District Judge Timothy S. Black
Magistrate Judge Michael R. Merz

-vs-

KEITH SMITH, Warden,

:

Respondent.

**DECISION AND ORDER FOR FURTHER BRIEFING ON PETITIONER'S MOTION
FOR DISCOVERY**

This capital habeas corpus case is before the Court on Petitioner's Motion for Discovery (Doc. No. 51) which Defendant opposes (Doc. No. 52). Petitioner has filed a Reply in support (Doc. No. 53) and Respondent has filed a Notice of Supplemental Authority (Doc. No. 54) calling the Court's attention to *Cullen v. Pinholster*, 563 U.S. ___, 131 S. Ct. 1388, 179 L. Ed. 2d 557 (2011), and suggesting it is relevant to, *inter alia*, the instant Motion.

Petitioner seeks to conduct very extensive discovery on his First, Third, Fourth, Sixth, Seventh, Eighth, Tenth, and Eleventh Grounds for Relief and on his *Schlup* gateway innocence claim to excuse any procedural defaults with respect to all three aggravated murders on which he was convicted (Motion, Doc. No. 51, PageID 1005-1006). Briefing on the discovery motion was complete before Cullen was decided and the Court desires to have the parties considered views on the impact of Cullen before authorizing discovery.

Accordingly, it is hereby ORDERED that Respondent brief his position on the applicability

of Cullen to the discovery motion not later than July 1, 2011, and that Petitioner respond not later than July 20, 2011.

June 10, 2011.

s/ **Michael R. Merz**
United States Magistrate Judge