

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Calvin Neyland, Jr.,)	
)	CASE NO. 3:16CV1064
)	
Petitioner,)	JUDGE JOHN R. ADAMS
)	
-vs-)	
)	<u>ORDER</u>
Charlotte Jenkins,)	
)	
)	
Respondent.)	

Pending before the Court is a motion filed by counsel for Petitioner Calvin Neyland, Jr. Counsel seeks leave to subpoena Neyland’s telephone records from Chillicothe Correctional Institution. Doc. 19. Respondent has opposed the motion, and counsel has replied in support. The motion is GRANTED.

Counsel seeks the records primarily to ascertain whether Neyland is presently competent to assist in his defense. Respondent opposes the motion and relies heavily on *Ryan v. Gonzalez*, 568 U.S. 57 (2013). However, *Gonzalez* resolved whether it was appropriate to stay a habeas proceeding while resolving a competency issue. In resolving that issue, the Court noted that competency was not required in a habeas proceeding and therefore a stay was appropriate. *Id.* at 76-77. However, the issue herein is distinct from that raised in *Gonzalez*. In this matter, no habeas

petition has been filed and counsel is seeking to determine whether additional proceedings may be commenced without the aid of Neyland. Under those facts, the Court will allow the limited discovery sought by counsel to aid in this litigation decision.

The motion for leave is GRANTED. Counsel is hereby authorized to subpoena Neyland's telephone records from Chillicothe Correctional Institution.

IT IS SO ORDERED.

Dated: January 8, 2018

/s/ John R. Adams
JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE