

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO**

Robert Boyd v. Warden, Madison Correctional Institution

Boyd v. Warden, Madison Correctional Institution, Case No. 1:25-cv-00455 (S.D. Ohio Dec. 9, 2025) · No.
1:25-cv-00455 · Decided December 9, 2025

OPINION

Boyd

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION AT CINCINNATI

ROBERT BOYD,

Petitioner, : Case No. 1:25-cv-00455 - vs - District Judge Jeffery P. Hopkins Magistrate Judge
Michael R. Merz WARDEN, Madison Correctional Institution, Respondent.

DECISION AND ORDER ON MOTIONS FOR DISCOVERY

This habeas corpus case, brought pro se by Petitioner Robert Boyd under 28 U.S.C. § 2254, is before the Court on two motions by Petitioner for discovery: Motion for Leave to Conduct Discovery (ECF No. 31), and Motion for Written Depositions (ECF No. 30) Petitioner seeks to have written questions posed to Ray Boggs, Jr.; Ryan Skeens; Gabbie Maytas; Patrick Howie; Kiel Jones; Royce Craft; Danny Sabelli; Josh Hensley; Ethan Smith; and Isyss Boyd. He also seeks very substantial discovery of additional materials related to the case. Petitioner recognizes the applicability of *Cullen v. Pinholster*, 563 U.S. 170 (2011). Pinholster bars a federal court “from admitting new evidence upon which to assess the reasonableness of a state court's constitutional analysis.” *Upshaw v. Stephenson*, 97 F. 4th 365, 372 (6th Cir. 2024), quoting *Mitchell v. Genovese*, 974 F.3d 638, 647 (6th Cir. 2020). However, he argues However, there are circumstances under which a Federal Habeas courts consideration of new evidence does not contravene Pinholster. These include "if the Court determines from the existing record that the state courts' decision was unreasonable under §2254(d); if a claim was not adjudicated on the merits but is otherwise properly before the Court for habeas review; or if the Court is considering whether to excuse a procedural default. (ECF No. 31, PageID 2709). In support of the proposition that Pinholster does not preclude discovery here, Petitioner cites *Caudill v. Collier*, 871 F. Supp. 2d 639 (E.D. Ky. 2012), but the Magistrate Judge writing that opinion did not actually grant discovery. While this Court agrees that there are situations in which Pinholster would not preclude new evidence – e.g. in support of a gateway claim of actual innocence, Petitioner has not shown and of the conditions mentioned exists in this case. The undersigned has filed a Report and Recommendations (ECF No. 29) recommending that the Petition be dismissed with prejudice and

without finding any of the circumstances in which Pinholster might not apply. Accordingly, Petitioner's Motion for Discovery and Motion for Written Depositions are DENIED. December 9, 2025. s/ Michael R. Merz United States Magistrate Judge

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