

COMPETENCY

Note: a majority of the subsequent history of the cases has been omitted as unnecessary for purposes of this appendix.

Case Name and Citation	Type of Scans	Defendant's Basic Claim	Outcome: Was Claim Successful or Unsuccessful?
Barnett v. Commonwealth, 317 S.W.3d 49, 55–57 (Ky. 2010).	EEG, CAT	Claimed trial court erred in refusing to grant funds for two additional expert witnesses to interpret CAT and EEG findings and to explain the effect of intoxicating drugs on defendant's brain function. Evidence would have been used to establish incompetence to stand trial.	Unsuccessful. Trial court provided defense with one M.D. to interpret test results, therefore, there was no need for additional experts. Court said defense counsel was "expert shopping" after not receiving favorable results.
Baumruk v. State, 364 S.W.3d 518, 529–30, 536 (Mo. 2012) (en banc).	CT; Requested updated CT and PET	Claimed ineffective assistance of counsel (IAC) in both competency and penalty phases after counsel failed to obtain current CT and PET scans during competency phase and failed to use prior CT scan during penalty phase. Defendant was shot in the head by police during his arrest & claimed incompetence and mitigation.	Unsuccessful. New scans during competency phase would have been "cumulative evidence," and failure to obtain them was not IAC. Scans during penalty phase would not be mitigating because brain damage was sustained after the crime occurred.
Clayton v. Roper, 515 F.3d 784, 789, 790–91 (8th Cir. 2008).	MRI, SPECT recommended	Claimed due process violation after trial court failed to provide competence hearing and funds for scans to support incompetence.	Unsuccessful. The trial court did not abuse its discretion. Habeas petition denied.
Coe v. Bell, 89 F. Supp. 2d 922, 924, 933, 946 (M.D. Tenn. 2000).	PET, MRI	Wanted to use brain scan evidence to prove that petitioner was not competent to be executed.	Unsuccessful. Although petitioner had brain damage and chronic paranoid schizophrenia, the court found him competent to be executed.
Dunlap v. Commonwealth, 435 S.W.3d 537, 552, 554–57, 563–64, 569 (Ky. 2014).	CT, MRI, PET	Claimed trial court erroneously denied guilty-but-mentally-ill (GBMI) plea and petitioner was not competent to enter a guilty plea. Also claimed trial court erroneously denied a new competency hearing based on newly discovered neurological evidence.	Unsuccessful. Though evidence revealed petitioner suffered from a malformation in his right frontal lobe, his testimony and expert testimony indicated that he was competent to plead guilty and understood the charges against him and potential consequences. GBMI claim was rightly denied because there

			<p>was a lack of evidence indicating petitioner was mentally ill at the time of his crimes. Because court found petitioner was competent to enter a guilty plea against the advice of counsel, a new competency hearing was not necessary.</p>
Ferguson v. State, 789 So. 2d 306, 308, 313, 315 (Fla. 2001) (per curiam).	MRI, CAT, EEG	Sought post-conviction relief on the grounds that defendant was incompetent to assist counsel during trial and claimed trial court erred in denying a competency hearing.	Unsuccessful. Despite the fact that defendant was diagnosed with paranoid schizophrenia and displayed signs of brain damage, the court found no abuse of trial court discretion.
Ginglen v. United States, No. 07-3058, 2009 WL 5108381, at *2, *11, *12 (C.D. Ill. Dec. 17, 2009).	CAT	Claimed guilty plea was unknowing, unintelligent, and involuntary. Relied in part on a statement by the trial court: “[S]omething snapped [when the offense was committed]. It almost suggests that there is something medically wrong with you. But we have the benefit of having a CAT scan of your brain . . . [a]nd there was nothing found that is wrong with you in terms of a tumor that would explain this aberrant behavior.”	Unsuccessful. The trial court was referring to the defendant’s mental state at the time that he committed his offenses, not during the plea negotiations and agreement. The court found that defendant did understand the nature and consequences of his guilty plea, and therefore, the plea was valid.
In re Roberto H., No. B192678, 2007 WL 4533141, at *2, *3, *5 (Cal. Ct. App. Dec. 27, 2007).	PET	Moved to suppress confession claiming he (the 13-year old juvenile defendant) lacked the ability to understand his <i>Miranda</i> rights because he had frontal-lobe brain damage and limited cognitive abilities.	Unsuccessful. Confession admitted.
McMurtrey v. Ryan, 539 F.3d 1112, 1114–15, 1120, 1132 (9th Cir. 2008).	CAT, EEG recommended	Claimed a due process violation because the trial court failed to hold a competency hearing prior to trial when there was reasonable doubt as to the defendant’s competency.	<p>Successful. Habeas petition granted on grounds that a competency hearing held 13 years later could not make a meaningful determination of the defendant’s competency at the time of trial and is insufficient to cure the due process violation.</p> <p>Authors’ Note: Scans did not influence the outcome here; it is unclear whether the scans were ever given. The neurological</p>

			examination conducted prior to trial did not reveal any abnormalities.
Moody v. Johnson, 139 F.3d 477, 481–82 (5th Cir. 1998).	CAT scan	Wanted to use brain scan and other evidence to establish lack of competence at time of trial.	Unsuccessful. Claim of incompetency denied. Defendant did not present any evidence that he was suffering from brain damage that rendered him incompetent at the time of trial and promised only unspecified expert testimony to support a showing of incompetence. The defendant's behavior—consulting with attorney, writing letters to counsel, the jury and his wife during trial, and participating in interviews—indicated competency.
People v. Leonard, 157 P.3d 973, 991–92 (Cal. 2007).	PET	Claimed seizure disorder was not taken into account during his first competency hearing and that it caused brain damage that warranted a new competency hearing	Unsuccessful. Experts who testified at the original competency hearing were aware of the defendant's seizure disorder and potential brain damage, yet they found him competent.
Roach v. Martin, 757 F.2d 1463, 1474 (4th Cir. 1985).	Requested PET scan	Claimed that a PET scan could tell if he had Huntington's Disease (HD), which would affect his competence to stand trial and be executed and that this was newly discovered evidence.	Unsuccessful. The court rejected defendant's claim. Even if the defendant had the HD gene, or manifestation of HD at the present time, it did not undermine his conviction or death sentence because there was no evidence to dispute his sanity at the time of the crime and time of trial.
Snyder v. Sec'y, Dep't of Corr., No. 3:12-cv-785-J-39PDB, 2015 WL 439306, at *2, *11–12 (M.D. Fla. Feb. 3, 2015).	CT scan	Defendant proceeding pro se missed filing deadline for habeas corpus petition; claimed mental impairment as an excuse for missing statute of limitations for filing petition	Petition rejected as untimely. The only brain scan evidence submitted to support claim that defendant had mental impairment was a CT scan that showed no abnormalities.
State v. Marshall, 27 P.3d 192, 195–96, 200 (Wash. 2001) (en banc), <i>abrogated by</i>	MRI, EEG, SPECT	Claimed extensive brain damage rendered him not competent to make a guilty plea. Brain scan evidence revealed significant atrophy and abnormalities.	Successful. Defendant allowed to withdraw guilty plea because of brain abnormalities.

State v. Sisouvanh, 290 P.3d 942 (Wash. 2012) (en banc).			
United States v. Dilks, No. 7:93-cr-00091, 2009 WL 528615, at *1, *2 (W.D. Va. Feb. 27, 2009).	N/A	Claimed that a brain injury prevented defendant from understanding the charges against him and from contributing to his own defense (and that the brain injury mitigated or eliminated his intent to defraud the banks).	Unsuccessful. Trial and appellate court rejected argument, finding that he did not present credible evidence that the brain injury mitigated his intent to defraud the banks or rendered him incapable of presenting a defense or understanding the charges
United States v. Gigante, 982 F. Supp. 140, 146–48 (E.D.N.Y. 1997), <i>aff'd</i> , 166 F.3d 75 (2d Cir. 1999).	PET	Claimed PET scan evidence and expert testimony on his brain dysfunction and possible Alzheimer’s disease or multi-infarct dementia prevented him from being tried. Defense sought a <i>de novo</i> review of the rulings finding the defendant competent prior to the trial, during the trial, and after the trial.	Unsuccessful. The court found PET scan evidence “dubious” and unpersuasive and agreed with the trial court decision that defendant was competent to stand trial.
United States v. Hammer, 404 F. Supp. 2d 676, 723, 792–94 (M.D. Pa. 2005).	MRI, PET	Claimed IAC for not using brain scan evidence in conjunction with mental health testimony to establish incompetency at time of trial and incompetency to enter a guilty plea.	Unsuccessful. The court found counsel was not ineffective and defendant was competent. However, due to Brady violations, the case was remanded for a new penalty phase hearing.
United States v. Kasim, No. 2:07 CR 56, 2008 WL 4822291, at *1, *3, *6 (N.D. Ind. Nov. 3, 2008), <i>supplemented by</i> No. 2:07 CR 56, 2010 WL 339084 (N.D. Ind. Jan. 21, 2010).	EEG, MRI, SPECT	Claimed incompetency to stand trial as a result of dementia. While EEG and MRI were normal, a SPECT scan revealed decrease in the blood flow to the temporal lobes, areas that control the cognition, memory, and speech functions. Numerous medical experts at the competency hearing. One expert testified that malingering could not be ruled out but the court found other expert opinions more credible.	Successful. The trial court found the defendant was incompetent to stand trial. The court also stated that because of his diagnosis of dementia it was unlikely he would become competent in the near or distant future.
United States v. Phillips, No. 89-5686,	BEAM (requested)	Requested brain scan to potentially prove lack of competency: to investigate the possible	Unsuccessful. Request for testing denied. Defendant had not shown what a BEAM

1990 WL 92625, at *1, *2 (6th Cir. July 3, 1990).		effects of a gunshot wound to the face that the defendant had suffered years earlier.	analysis would add to the tests already conducted. The court found defendant was trying to use the additional requested testing—another psychiatric evaluation and a BEAM test—as a fishing expedition.
Panetti v. Stephens, 727 F.3d 398, 409 (5th Cir. 2013).	PET	Defendant argued he was not given proper funding to secure a PET scan in order to respond to the State’s allegations of malingering.	Unsuccessful. The court stated that the defendant’s request for a PET scan was too late and violated the court’s scheduling order.
People v. Banks, 331 P.3d 1206, 1226, 1256 (Cal. 2014), <i>abrogated</i> by People v. Scott, 349 P.3d 1028 (Cal. 2015) (per curiam).	EEG, MRI, SPECT	Defendant argued that some of the expert testimony involving mental health and brain damage was improperly excluded.	Unsuccessful. Defendant’s EEG and MRI were normal. SPECT scan revealed decreased glucose metabolism in the temporal lobes. The jury heard testimony that the defendant had “organic brain damage.” The jury did not find that evidence outweighed the aggravating factors in this case. The court held that excluding any potentially mitigating evidence about defendant’s brain damage was harmless error.
People v. Phillips, 948 N.E.2d 428, 430, 435–36 (N.Y. 2011).	MRI, CT	Defendant argued he was per se unfit for trial due to the nature and permanency of his brain injury. MRI scans were performed, which confirmed the injury.	Unsuccessful. The court said that competency is a legal determination, not a medical one, and that the trial court acted within its discretion to find defendant competent to stand trial.
Reid <i>ex rel.</i> Martiniano v. State, 396 S.W.3d 478, 483, 478–88, 492, 518 (Tenn. 2013).	PET, MRI	Question of whether defendant is competent to withdraw petition for post-conviction relief. The defendant argued the trial court erred by finding him competent, though it did not allow him to withdraw petition. PET and MRI revealed lesion on anterior part of left temporal lobe.	Unsuccessful. The trial court was within its discretion to reach the decision they did, since credible expert testimony supported its decision.
Roberts v. Sec’y, Dep’t of Corr., No. 8:07–CV–1352–T–27TBM, 2010 WL	CT, EEG	Sought writ of habeas corpus, arguing due process violation due to incompetence at the time he pleaded guilty. Evidence at	Unsuccessful. The evidence indicated that defendant was competent to proceed.

3608391, at *2, *7, *8 (M.D. Fla. Sept. 10, 2010).		competency hearing included CT and EEG, which were negative for brain damage.	
Smith v. Freeman, No. 87-7931, 1990 WL 18775, at *2, *6 (E.D. Pa. Feb. 22, 1990).	EEG, CAT	Argued that defendant was incompetent at the time he entered a guilty plea. Neurologist reviewed EEG and CAT scans, and concluded that there was little to support diagnosis of organic brain syndrome, but suggested more testing.	Successful. Based on the evidence and totality of circumstances surrounding the guilty plea, the defendant was mentally incompetent at the time of the plea. The court did not find the brain scan evidence to be of particular significance in its decision.
State <i>ex rel.</i> Peacher v. Sencindiver, 233 S.E.2d 425, 425–26 (W. Va. 1977).	EEG recommended but not performed	Defendant was examined before trial by psychiatrists, who determined that he was competent to stand trial. However, they recommended further neuro-testing, including EEG, and defendant moved for a continuance to allow the testing to be done. Trial court refused, and defendant sought writ of prohibition.	Unsuccessful. The trial court abused its discretion by not allowing the mental examination. However, a writ of prohibition will not be issued to prevent an abuse of discretion by a trial court, only where the court lacks jurisdiction.
State v. Bailey, 213 S.W.3d 907, 909–10, 912 (Tenn. Crim. App. 2006).	CT	CT scan showed evidence of self-inflicted gunshot wound, volume loss in frontal lobe. Argued that trial court erred in finding competency, and that competency should be a certified question of law. Appealed as to the certified question, and to withdraw guilty plea.	Unsuccessful. Reversal of competency would not allow dismissal of the case, but would remand. The court did not have jurisdiction to decide the matter and had no basis to permit defendant to withdraw guilty plea.
State v. Baldwin, 174 S.E.2d 526, 529–31 (N.C. 1970).	EEG, skull x-ray	Argued incompetence to stand trial, but EEG and skull x-ray were normal. Medical staff of hospital said he was competent to stand trial. The defendant argued EEG should have been performed after alcohol administered to test pathological intoxication and sought funds for new test, but the trial court denied request.	Unsuccessful. The request for further testing should have been made earlier, before extensive preparation for trial had been made. The trial court did not abuse their discretion by denying the request. Even if testing had substantiated the claims, it would not have established an insanity defense or lack of specific intent defense.
State v. Comeaux, 514 So. 2d 84, 90–91 (La. 1987).	CT, EEG	Argued the trial court erred by not finding defendant incompetent due to mental disease or defect. CT and EEG were within normal	Unsuccessful. Defendant did not carry his burden of proof to show mental incapacity, so trial court did not abuse its discretion.

		limits, though psychologist said defendant is “mildly mentally retarded with an I.Q. of 68,”	
State v. Dixon, 668 So. 2d 388, 390, 392, 393 (La. Ct. App. 1996).	CAT, EEG	The defendant wanted a continuance because he argued that he was incompetent and could not assist counsel because he had amnesia due to a gunshot wound from the incident. CAT scan and EEG provided evidence of the amnesia.	Unsuccessful. Because defendant’s amnesia was permanent, there was no use for a continuance because his memory of the event would never come back.
State v. Janto, 986 P.2d 306, 312–13, 316, 319 (Haw. 1999).	EEG	Defendant was evaluated for competency to stand trial. EEG was performed and showed a mild abnormality, which expert said warranted further testing. Defense argued testing should have been done, but the court said defense already conceded defendant was fit to proceed with trial based on experts’ overall conclusions. The defendant also argued IAC for counsel not pursuing further testing or discussing results with examiners.	Unsuccessful. The court can make a determination on an expert’s report if counsel does not object to it. Here, defense counsel did not object to the findings that defendant was fit to proceed. The three examiners agreed that defendant was fit to proceed, so the trial court had an adequate basis for their decision. Also, there was no IAC claim because the argument that counsel failed to follow up with EEG results or that experts’ opinions would have changed was purely speculative.
State v. Kiser, 284 S.W.3d 227, 243, 244–46 (Tenn. 2009).	CAT, MRI	Defendant argued the trial court violated his due process rights by not investigating further into his competency to waive his right to present mitigating evidence. Expert report filed before trial, which said that defendant had brain damage as shown by a CAT scan, and paranoid ideation due to atrophy as shown by CAT scan and MRI.	Unsuccessful. Defense counsel never requested a competency determination. Absent a request, a court may determine competency only when a reasonable judge experiences doubt as to the defendant’s competency. Here, the court decided that the brain scan evidence was not enough to require the court to inquire into defendant’s competency.
United States <i>ex rel.</i> SEC v. Billingsley, 766 F.2d 1015, 1026, 1028 (7th Cir. 1985).	CAT, EEG	Argued the trial court improperly placed the burden of proof on the issue of fitness to stand trial. Expert testified, based in part on CAT and EEG, that defendant had “mild cognitive impairment.”	Successful. Case remanded to district court to determine fitness for trial. Because of the competing expert testimony, court could not say that using wrong burden of proof was harmless error.

United States v. Brooks, No. 3:09cr209-MHT, 2010 WL 2267030, at *3, *4 (M.D. Ala. June 7, 2010).	CAT, MRI	Argued he was incompetent to stand trial, using evidence of head injury from industrial accident. CAT and MRI showed no evidence of structural damage or swelling of brain.	Unsuccessful. The evidence showed that defendant was competent to stand trial, even if he was mildly mentally retarded and suffered a head injury.
United States v. Carter, No. 1:12-CR-29, 2013 WL 6668715, at *8, *9–13 (E.D. Tenn. Dec. 18, 2013).	CT	Argued he was incompetent to stand trial or enter a guilty plea because of injury from gunshot wound to head. Multiple experts testified for both sides, and CT scan showed bullet fragments in left temporal lobe, but expert who looked at scans said defendant was competent.	Unsuccessful. The court adopted the magistrate's opinion, who gave more weight to testimony of experts who found defendant competent.
United States v. Dreyer, 705 F.3d 951, 958, 962, 965 (9th Cir. 2013) (Reinhardt, J., vacating and remanding).	Unspecified brain imaging	Argued lower court erred by not ordering a competency hearing. Brain imaging showed "extensive frontal lobe damage" causing impairment of judgment.	Successful. There was enough evidence to create a reasonable doubt about defendant's competency. Vacated and remanded for district court to conduct evidentiary hearing.
United States v. Duncan, 643 F.3d 1242, 1249, 1250 (9th Cir. 2011).	MRI, PET	Determination whether district court properly found defendant competent to waive his right to appeal. MRI and PET showed "unusual brain structure."	Successful. The evidence created a reasonable doubt about defendant's competency, and a full competency hearing should have been held. Remanded to district court for competency hearing.
U.S. v. Fuenmayor-Arevalo, 490 F. App'x 217, 221, 226 (11th Cir. 2012) (per curiam).	None performed	Appealed denial of motion to withdraw guilty plea, argued incompetent. Requested funds for brain scans to diagnose dementia, but the request was denied.	Unsuccessful. The lower court did not err by denying the request for tests, because the request was made late and one of the experts already gave an opinion on defendant's competency.
U.S. v. Hager, No. 90-4110, 1991 WL 110376, at *1–2, *3 (6th Cir. June 21, 1991).	CAT	Appealed finding of competency by lower court. CAT showed skull fracture. Expert testified this sort of injury would affect psychological functioning.	Unsuccessful. Expert said that even people who suffer a severe injury can recover, and other tests were susceptible to defendant faking his symptoms. Thus, the lower court was not erroneous in the decision it reached.

United States v. Kasim, No. 2:07 CR 56, 2010 WL 339084, at *1–4 (N.D. Ind. Jan. 21, 2010).	SPECT, EEG, MRI	Defendant argued he was incompetent due to dementia. SPECT scan showed diminished blood flow, which expert said was not indicative of dementia. Also, expert said SPECT was not the preferred scan for dementia. EEG and MRI after anoxic event were normal.	Unsuccessful. The government provided enough evidence to show competency, including testimony about conversations between defendant and others.
United States v. Kelley, No. 05 CR 254(KMW), 2006 WL 1310373, at *3 (S.D.N.Y. May 11, 2006).	CAT, EEG, MRI	Defendant requested continuance of trial, arguing that he was not physically capable to stand trial. The scans were “unremarkable,” and expert suggested defendant was malingering.	Unsuccessful. While the court recognized his increased risk of heart attack or stroke, there was no suggestion that trial would increase the risk.
United States v. Knox, No. 05-00270-CB, 2010 WL 2643566, <i>passim</i> (S.D. Ala. June 29, 2010).	MRI	Defense requested a continuance, arguing defendant was still incompetent to stand trial. Requested an MRI after expert said defendant suffers from dementia. MRI showed mild atrophy consistent with age.	Unsuccessful. Multiple experts rejected the dementia diagnosis. Other non-medical evidence provided support of competency determination.
United States v. Merriweather, 921 F. Supp. 2d 1265 (N.D. Ala. 2013) (finding defendant competent to stand trial), <i>second motion to declare defendant incompetent denied</i> , No. 2:07-CR-243-RDP-JEO, 2014 WL 5770213, at *10, *65 (N.D. Ala. Nov. 5, 2014).	MRI, PET	Argued incompetent to stand trial. Expert testified based on MRI and PET that defendant had psychosis due to schizophrenia.	Unsuccessful. The court did not give much weight to the brain scan evidence, with experts questioning the efficacy of MRI to diagnose medical conditions. After an appeal and a second competency hearing, the court “remain[ed] of the opinion that Merriweather is competent to stand trial.”
United States v. Puerto, 392 F. App’x	SPECT, PET, EEG, MRI	Argued incompetent to stand trial. Expert testified that SPECT and PET did not support diagnosis of dementia.	Unsuccessful. Several experts reviewed the brain scans, and testified that defendant was competent.

692, 708–11, 713, 717 (11th Cir. 2010).		Sought to include evidence about diminished mental state to support insanity defense in the guilt phase. Expert said EEG and MRI showed dementia.	Unsuccessful. Expert could not provide testimony about defendant's state of mind at the time of the acts. Lower court did not abuse its discretion.
United States v. Rothman, No. 08-20895-CR, 2010 WL 3259927, <i>passim</i> (S.D. Fla. Aug. 18, 2010).	MRI, PET, EEG	Motion to determine competency to proceed to sentencing. Expert said defendant was not competent due to what was probably dementia, based in part on MRI, PET, and EEG.	Successful. The court agreed that defendant was suffering from dementia. Experts provided substantial evidence to support this conclusion.
Wilkins v. Delo, 886 F. Supp. 1503, 1507–08, 1513 (W.D. Mo. 1995).	EEG, MRI, SPECT	Argued incompetent to stand trial. One of the experts testified that defendant was not competent, in part based on EEG, MRI, and SPECT.	Successful. In light of defendant's mental impairment, it was questionable whether he possessed the information necessary to knowingly, voluntarily, and intelligently waive his right to counsel.
Smith v. Mullin, 379 F.3d 919, 928–29, 931, 932 (10th Cir. 2004).	None performed	Argued IAC for counsel failing to investigate, develop, and present evidence of defendant's incompetence. Evaluators said defendant was competent to stand trial. Counsel requested funds for SPECT, MRI, and EEG.	Unsuccessful. Defendant could not show prejudice resulting from deficiencies in counsel's performance.
United States v. Curtis, No. 2:12-CR-20020, 2014 WL 6974291, at *1, *3, *4 (W.D. Ark. Dec. 9, 2014).	CT	Request by government to forcibly administer antipsychotic medication to defendant to restore competency. Defense expert diagnosed defendant with neurocognitive disorder due to traumatic brain injury instead of delusional disorder, in part because of CT scan.	Successful. Expert said medication would not change defendant's competency because it was due to organic brain damage, and defendant was not a danger to others.
United States v. Merriweather, No. 2:07-CR-243-FDP-JEO, 2014 WL 5770213, at *10, *65 (N.D. Ala. Nov. 5, 2014).	MRI, PET	Defendant argued he was incompetent to stand trial. Defendant's expert concluded that defendant suffered from schizophrenia, relying on MRI and PET scans.	Unsuccessful. The court concluded that defendant did not have schizophrenia, saying the brain scans were too speculative because they could indicate other conditions.

People v. Gray, No. C074022, 2014 WL 5573429, at *1–2, *6 (Cal. Ct. App. Nov. 4, 2014).	PET	Argued trial court should have suspended proceedings and had defendant evaluated because defendant’s PET scan showed substantial evidence that he was not competent to stand trial.	Unsuccessful. Defendant failed to explain how new PET results would cast serious doubt on previous competency determination.
United States v. Strohmetz, No. 2:13-CR-271-KJD-CWH, 2014 WL 4375300, at *1 (D. Nev. Sept. 3, 2014).	CAT	Defendant filed motion to determine competency to stand trial and a motion for a CAT scan.	Unsuccessful. The record did not contain any evidence of physical or neurological impairment, and brain scans would do nothing to improve his prognosis.
People v. Carisalas, No. F064481, 2014 WL 6066166, at *11–12 (Cal. Ct. App. Nov. 14, 2014).	PET, EEG	Argued trial court erroneously limited the extent of testimony expert could give on PET and EEG scans. The trial court allowed testimony regarding the scans and their results, but the court limited another expert’s opinion. The specific opinion relating to the scan evidence was that since the results of the scan revealed defendant’s brain function was more than two standard deviations “below the norm,” it was highly unlikely he was malingering.	Unsuccessful. The trial court erred by limiting the testimony, but the error was harmless. The expert was allowed to testify to the results and that the results were consistent with his opinion that the defendant was incompetent.
Hugueley v. Carpenter, No. 09-1181-JDB-egb, 2015 WL 225053, at *1, *3, *18 (W.D. Tenn. Jan. 15, 2015).	EEG, CAT	Argued incompetence to stand trial, to waive presentation of mitigation evidence, and to waive post-conviction due to organic brain defects, as shown by newly discovered scientific evidence. Scans after tumor was removed were normal, but later experts recommended testing.	Unsuccessful. Defendant was at fault for failing to present the evidence earlier.
Hall v. Carpenter, No. 05-1199-JDB-egb, 2015 WL 1464017, at *31–32 (W.D. Tenn. Mar. 30, 2015).	PET, MRI	Argued newly discovered PET evidence relevant to guilt phase showed brain damage limiting his ability to control behavior and modulate impulses and making him unable to act with deliberation.	Unsuccessful. Other expert testified that defendant lacked impulse control, so defendant was not prejudiced.

United States v. Benson, No. 12-cr-00480-YGR-1, 2015 WL 1869476, at *11, *16 (N.D. Cal. Apr. 22, 2015).	MRI	Competency evaluation and evidentiary hearing; defendant argued he was incompetent to stand trial. Neurologist stated that defendant was incapable of fulfilling the duties of his job, based on MRI scan, and would not be capable of recalling facts in a legal proceeding.	Unsuccessful. There was plenty of evidence to suggest that defendant was competent and any “slowness” was only due to his age.
State v. Timmendequas, 2014 WL 7773643, at *2–3, *4 (N.J. Super. Ct. App. Div. Feb. 6, 2015) (per curiam).	MRI, CT	Argued defendant was incompetent to waive his <i>Miranda</i> rights. After trial, defendant sought to be transported to neurologist for MRI and CT scans because previous physical evaluation indicated brain problems.	Unsuccessful. Evidence of defendant’s low intelligence did not outweigh the evidence of defendant’s lifestyle that suggested that defendant was capable of waiving his <i>Miranda</i> rights.