



THE ALFONZO CASE The Rationale for State Certification in Florida María Cecilia Marty

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I arrived in Tampa in 1997 after obtaining an MA from Monterey Institute of International Studies (MIIS) in translation and interpretation and working in the California courts. While in Florida I participated in several efforts to bring interpreter certification to the state, but somehow, whenever a bill was finally presented to the legislature, it never quite made it the whole way through.

One day a colleague called to ask my advice on a particular case. Little did I think that case would be passed to me for evaluation, but I was eventually hired as an expert witness to evaluate the interpreter of record for a change of plea that had occurred on October 15, 2004.

How to go about fairly evaluating the interpretation? I reviewed the rules of evidence on interpreters and witnesses:

Article VI Witnesses

Rule 604: Interpreters as witnesses are “subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation... a person who testifies at a trial because [s]/he has knowledge in a particular field ... allowed to give testimony in the form of an opinion or conclusion.”

Article VII Opinions and Expert Testimony
Rule 702: If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Format and Transcript Considerations

In this case the judge would make the ultimate finding as to the performance of the interpreter of record. I needed to give him the tools by which to evaluate the Spanish interpretation. I thought that the best way to achieve this would be to present the material in a three-column format with the headings: **Original Utterance** (in English by court personnel or in Spanish by the defendant), **Interpreted Utterance** (transcript of the original interpretation) and **Translation of Interpreted Utterance** (a “back translation”). This way the judge would be able to compare what was originally said with what the defendant actually heard in translation. The

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Interpreted Utterance in Spanish was placed in the middle.

Methodology

Thankfully, I was provided with the official tape transcript of the proceeding, so I could directly transcribe the interpreter’s rendition. The recording I was provided allowed me to isolate the microphones in the court room, so I could turn off all other mikes and only listen to what the defendant’s microphone picked up of the interpretation, which was quite audible most of the time.

Steps followed in evaluating interpreters’ performance:

1. I listened exclusively to the Spanish interpretation rendered (what the defendant heard) by turning off the microphones which did not directly capture the interpreter’s voice. The original English utterances were neither listened to nor taken into account at this stage.

2. I listened to the recording again numerous times while transcribing all original Spanish utterances with the assistance of a transcriber, speakers and headphones. The defendant’s original utterances in Spanish are shown as well.

3. I formatted the official court reporter’s English transcript for my purposes and placed it next to the Spanish rendition before proceeding to translate.

4. I did a back translation into English of the interpreter’s original, as accurately as possible, without comparing the Spanish rendition to the original English utterance. Translation considerations in back translating the interpreter’s rendition into English: I decided to be as literal as possible, attempting to include all the linguistic interference in the Spanish, including all paralinguistic features, such as incorrect pronunciation, hesitation, hedge, false start, among others, in order to give the English reader not only

the flavor of the interpretation, but to place him in the same position as the defendant, linguistically speaking.

Evaluation Criteria

In evaluating the interpretation and writing the expert witness report, I wanted to be sure that my conclusions were arrived at empirically. I decided to draw on professional standards such as the grading criteria for the California, consortium, federal and NAJIT court interpreter examinations.

I drew from my experience as a student at MIIS, where I was constantly being evaluated, from my experience as a candidate and later a grader for some of the above examinations, and as an adjunct professor of interpretation for the University of Charleston, Florida International University and the University of South Florida.

In each instance, the interpreter’s rendition was compared to the original utterance in order to assess accuracy, fluency and intonation, register, grammar (verb tense, gender agreement, use of prepositions), frequency of false cognates, omission, addition, phonological interference (incorrect pronunciation), meaning error, register, style, proper use of third and first person in a legal setting, and the quality of interpretation as a whole.

Instead of creating a cumbersome code for each type of error, which would take additional time and effort for a reader to decipher, I decided to embed any comments in brackets, in the back translation column.

Four instances of interpretation were provided in this particular case. Here is an excerpt from the October 15, 2004 entry of plea hearing:

ORIGINAL UTTERANCE	INTERPRETED UTTERANCE	TRANSLATION OF INTERPRETED UTTERANCE
THE COURT: State of Florida versus Juan Ramon Alfonzo, 04-34473.	COURT INTERPRETER: Okay. <u>La Fiscalía</u> contra Juan Ramón Alfonzo, 04 - 34 - 473.	Okay. <u>The State’s Attorney’s Office</u> versus Juan Ramón Alfonzo, 04 - 34 - 473.
MR. KWILECKI: Judge, pursuant to negotiations, Mr. McGlashan would be offering for—in return for a plea of no contest, and a withhold of adjudication, hopefully—	COURT INTERPRETER: Su Señoría, según <u>los negocios</u> hechos con su ... de que el señor, la Fiscalía está <u>dando* de</u> no, no <u>adjudicarle culpable</u>	Your Honor, according to <u>the businesses</u> made with your... of the, the sir, the State Attorney’s Office if <u>giving* of</u> no, not to <u>adjudicate you guilty*</u>
MR. MCGLASHAN: That’s difficult to hear, Your Honor. This is a co-defendant to the dump truck ring, where this dump truck was — this dump truck was retrieved or recovered. The victims are here; Mr. and Mrs. Linsley. And in this case, I guess, there’s some damage and restitution is owed. And as we had a previous discussion at the arraignment of this case, they feel strongly about it, although there’s no direct link between—I have no direct evidence connecting the two thefts. But they would like to address the Court.	* Sí, Su Señoría, <u>de que</u> eso es un, un <u>pensa</u> de un camioneta <u>peque</u> — <u>de que</u> lo recogieron y las víctimas están <u>prezente</u> y ... Sr. y Sra. <u>Stansley</u> [sic] y el caso <u>de que</u> hay daños y de que y, tiene que pagar. Y <u>de que</u> como hemos hablado antes ... ellos se sienten <u>muy fuerte</u> de eso, <u>de que se sienta de que</u> han ... <u>un conexión</u> aunque no hay evidencia, eh, de los, ah, robos, pero si ellos quieren hablar a la par de ...	Yes Your Honor of the that is a, a ‘pensa’ [sic] of a pick-up [wrong gender] <u>sma [ll]</u> — <u>of that</u> they picked it up and the victims are <u>prezent</u> [singular conjugation; phonological interference] and ...Mr. and Mrs. <u>Stansley</u> [sic] and the case <u>of that</u> there are damages and of the and, you have to pay. And <u>of the</u> as we have talked about before ... they feel <u>themselves very strong</u> of that, <u>of the he feels of that</u> they have ... <u>a connection</u> [masculine - wrong gender] even though there is no evidence, um, of the, ah, robberies, but if they want to speak along with ...
THE COURT: Well, is there —	[NO INTERPRETATION]	
MR. MCGLASHAN: No, there’s no —	[NO INTERPRETATION]	

ORIGINAL UTTERANCE	INTERPRETED UTTERANCE	TRANSLATION OF INTERPRETED UTTERANCE
THE COURT: I'll be glad to hear from them. Are there any negotiations?	COURT INTERPRETER: Okay. Bueno, yo quiero escucharles pero quiero saber del negocio.	Okay. Well, I want to hear them but I want to know about <u>the business</u> .
MR. MCGLASHAN: No. They – they feel strongly about it and probably want some incarceration.	COURT INTERPRETER: <u>Se siente bien del, uh, de la oferta</u> y sí quieren <u>de que buscan</u> tiempo en la cárcel.	<u>He/she/it feels good of the, uh, of the offer</u> and they do want <u>of that they are looking for</u> time in jail.
THE COURT: Okay. So it would be an open plea?	[NO INTERPRETATION]	
MR. KWILECKI: Yes, sir.	[NO INTERPRETATION]	
THE COURT: Is that what he wants to do?	COURT INTERPRETER: So, lo que quieren ...	So, what they want ...
MR. KWILECKI: Okay. The State is not making a plea offer. So you can do – the range is probation to five years in prison.	COURT INTERPRETER: Es Fiscalía, no * <u>stá</u> dando <u>oferta</u> , así que usted tiene, probatoria o hasta cinco años en prisión. Eso es <u>la ranga</u> de que le <u>pueda</u> – Oh, treinta, treinta años, perdón ... así que ...	Is, <u>the State Attorney's Office</u> , 'snot giving a <u>sale</u> , so that you have, probation or up to five years in prison. That is <u>the ranga*</u> [made-up word] of that it <u>may</u> – Oh, thirty, thirty years, sorry ... so that ...
THE COURT: No, I'm showing a first-degree.	[NO INTERPRETATION]	
MR. MCGLASHAN: Actually, it's thirty – up to thirty years.	[NO INTERPRETATION]	
MR. KWILECKI: Is this a first-degree? Thirty years in prison. So – I thought there would be a plea offer.	[NO INTERPRETATION]	
THE DEFENDANT/SPANISH: [U] dame la probatoria entonces.	THE DEFENDANT: Okay, give me the probation then.	[U] then give me probation.
MR. KWILECKI: Okay. Are you – so –	[NO INTERPRETATION]	
THE COURT: I'm sorry? What did he say?	COURT INTERPRETER: Lo lamento, ¿qué?	I am sorry, what?
DEFENDANT/SPANISH: ¿Qué dice?		What is he saying?
COURT INTERPRETER: ¿Qué <u>eh</u> lo que dijo usted?		What <u>i</u> what you said?
THE DEFENDANT/SPANISH: Para que me den la probatoria[U]	THE DEFENDANT: They – they gave me the – the – they give me the probation, ...	So that they give me probation [U]
THE DEFENDANT/SPANISH: ... y yo le pago los daños que dice ella.	THE DEFENDANT: ... and I'll pay for whatever damages.	... and I will pay the damages she is claiming.

In the four instances, two different interpreters provided the in-court interpretation, and so the expert opinion report I rendered contained the following chart as to each interpreter, followed by a

narrative description of the interpreter's strengths and weaknesses.

The expert opinion evaluation provided for the hearing on October 15, 2004 looked like this:

Criteria	Excellent	Good	Fair	Poor	Inadequate
Fluency in Spanish					X
Fluency in English			X		
Accuracy					X
Intonation				X	
Register				X	
Grammar:					X
verb tense					X
gender correspondence					X
use of prepositions					X

Criteria	Excellent	Good	Fair	Poor	Inadequate
False Cognates				X	
Omissions					X
Additions					X
Phonological Interference					X
Meaning Errors					X
1st & 3rd Person Use				X	
OVERALL RATING					X

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THE ALFONZO CASE *continued*

The interpreter of record in this case had been interpreting in that county for nine years and had interpreted more than 5,000 times. Had the state of Florida passed a law earlier requiring interpreter certification, this interpreter would have had to perfect her trade in order to pass the test or would never have interpreted in court.

Conclusion

A defendant charged with stealing a tool box, thinking he was pleading guilty to a crime for which he would get 15 months probation, ended up pleading guilty to stealing a dump truck and received a sentence of 15 years. The Alfonzo case clearly indicates substandard interpreting. It also argues against the practice of “grandfathering” interpreters who have been interpreting in court for many years.

The case was the subject of several articles in the *Daytona Daily News*. When the poor quality interpretation was documented, the Daytona Beach Circuit Court invalidated the plea. Legislators who had been involved in prior efforts to improve interpreting standards seized upon the Alfonzo case as an example of the kinds of miscarriages of justice that occur in the absence of interpreting standards and testing.

Any interpreter with many years of experience should have no trouble passing the examination of the Consortium for State Court interpreter certification, which requires only a *minimum* level of competency to ensure due process.

Law schools everywhere should require at least one class on interpreter issues. Associations such as NAJIT can train interpreters

to provide this service to their local institutions and work with bar associations to offer courses for joint CLE credits.

Judges should become more informed and knowledgeable about interpreting issues. A good project for NAJIT would be to produce a video (or a video series) addressing these issues of credentialing and competence.

Hispanic associations everywhere should also help make the Hispanic population aware of their right to a competent interpreter.

Coda

On June 20, 2006 the Florida legislature authorized the Supreme Court to “establish minimum standards and procedures for qualifications, certification, professional conduct, discipline and training” of court interpreters. An appropriations bill funded the certification program and authorized the court to set fees for certification applicants. On June 26 the Supreme Court of Florida adopted, effective July 1, 2006, the Florida Rules for Certification and Regulation of Court Interpreters. Florida is now on the map of states that are taking needed steps to effectively deliver court interpreting services to Florida’s citizens. ▲

[The author, a federally certified Spanish interpreter and seminar-level conference interpreter, has taught interpretation at various universities. She can be reached by email at: fittservices@ureach.com. This article is dedicated to all interpreter pioneers who helped lay the foundation for interpreter certification in Florida.]

Workshop Opportunity: Germany**April 22 – May 4, 2007**

German < > English

Back for the 7th time by popular demand! This year’s program offers the now-traditional mix of lectures, meetings and site visits centered around topics of interest to translators and interpreters as well as a healthy admixture of cultural offerings.

Erlangen 7 will address a number of very topical issues, ranging from alternative fuels and the motors designed to use these alternatives followed by a visit to a truck-maker where theory is put into practice. Natural disasters and terrorist activities have put the work of first responders into the spotlight, and a visit to the German equivalent of FEMA and the opportunity to meet with local EMTs will be part of the program. Other topics include meeting with a German notary and learning more about notary practice in a civil law country; visits to the *Bundesagentur für Arbeit* and to the agency that oversees *Weltraumüberwachung*; a crash course in glassmaking technology; as well as banking practices and new developments in German business.

Cultural plans include visits to museums and historic sites, presentations on contemporary literature, the foundations of contemporary Germany culture, *Jugendstil*, meetings with the translation and interpreting students and faculty of the *Institut für Fremdsprachen und Auslandskunde*, a *Weinprobe* and an optional theater evening.

Field trips will cover nearby sites, Erlangen and Nuremberg, and Darmstadt, Waldsassen on the Czech border and Cheb in Bohemia.

The optional weekend trip to the East will be to Jena, where we will visit Zeiss optics or Schrott Glass and enjoy a variety of cultural activities.

The cost of the 2-week program, which includes lodging, daily breakfast, welcome dinner, goodbye party, all excursions and admissions to museums and other sites is a very reasonable \$925. This price does not include your travel to and from Erlangen or the optional weekend excursion to Jena.

For more information, email: LoisMarieFeuerle@cs.com or call (503) 236-5593.