

A LEXICOGRAPHER'S LAIR

SPELLING IT OUT FOR THE COURT

Dennis McKenna

Time and time again we hear that courts do not take into account our judgment on matters which concern us. We are, after all, experts in our field. And yet judges, lawyers, clerks, and even bailiffs often disregard our reasoned opinion and end up making decisions that undermine our ability to serve the language needs of LEPs in court. We could, however, help our cause by being better at explaining our views when the time comes. The following is a short list of topics that should help answer quandaries about language:

DIALECT VS. LANGUAGE

Situation: You have been sent to interpret for a defendant and are waiting for the case to be called. So far they have not brought out the defendant, but before you know it, the defense attorney is objecting to your presence, stating that his client is a Guatemalan and needs an interpreter who can speak a Guatemalan “dialect.”

Question: The judge asks you if you are familiar with the Guatemalan “dialect.”

Response # 1: You answer that you are not very familiar with that dialect. The judge dismisses you from the case and orders a “Guatemalan” interpreter.

Response # 2: You inform the court that you are competent to interpret the Spanish spoken in Guatemala. If what counsel is referring to, however, is a separate *language* spoken in Guatemala, such as K’iche’, Q’anjob’al, Kaqchikel or Mam, then by all means an interpreter of one of those languages will be required..

Background information: Native people from Mexico and Guatemala often refer to what they speak as *dialectos*. (They also may sometimes refer to Spanish as *castilla*, not *castellano*, as in *no hablo castilla*.) But we know that the Mixe spoken in Oaxaca, the Mayan in the Yucatan and the K’iche’ in Guatemala are vastly different languages that are neither “dialects” of Spanish nor of each other. In Mexico alone, the Instituto Nacional de Lenguas Indígenas lists 364 languages spoken. Part of the confusion may have come from the Spanish colonizers, referring first to the local people as “Indians” and then to their languages as “dialects.” (One wonders what Spaniards thought they were speaking, dialects of Hindi?) A language often covers vast areas of geography, with different accents, pronunciation, vocabulary and even grammar. But given that all these different forms of speech, or dialects as they are often called, are still mutually intelligible, we continue to refer to them as one language. In this way the English spoken by New Zealanders and New Englanders is still the same language, just as the Spanish spoken by Guatemalans, Cubans and Argentinians is, too.

COGNATES AND FALSE FRIENDS

Most languages share a common origin with other languages, as is the case with the Romance languages: Portuguese, French, Italian and Spanish. Among these languages there are many words that are closely related. These are called cognates. They look alike and mean pretty much the same thing. *Muter* and *mother* are cognates in German and English. Through Latin and Norman French, English also shares a good deal of vocabulary with Romance languages like Spanish. This is how we get *civilization* and the rest of the “—tion” words, almost all of which we share with Spanish in the form of very similar words ending in “—ción.” But *actualmente* and *actually* are what we call false friends. False friends also share a common origin, yet they have very different meanings. (See end note) Where things start to get interesting is when two words correspond perfectly for some meanings and diverge for others. This is the case with *molestar* and *molest*. They do mean the same thing in the Spanish sense of *importunar*, but when it comes to sexual molestation, English has this as by far the most common usage, although it is not an accepted usage in Spanish.

Situation: You perform a tape transcription of a defendant’s interrogation. At one point the police ask:

¿Si no has abusado de la niña, por qué dejaste de frecuentar la casa de los Escalante?

The defendant answers:

Sus papás no me veían con buenos ojos, eso me lo hicieron ver bien claro en varias ocasiones, así que decidí que ya no la iba a molestar más. Era mejor así.

You translate this as:

Her folks didn’t approve of me – they made that very clear to me on several occasions – so I decided that I wouldn’t bother her any more. It was better that way.

You are called to court to defend your translation. The prosecution has put forth an alternative translation of *molestar* – given the specific context of a twenty-eight-year-old man and a thirteen-year-old girl – which is “to molest” the girl.

Response #1: You admit that, given the context, he probably meant “to molest,” even if the word doesn’t normally mean that in Spanish. The guy was guilty as sin anyway, so what difference did it make?

Response #2: You stand by your translation and explain that *molestar* and *molest* are false friends in the sense of sexual abuse.

Background information: Often times we are pressured by

A LEXICOGRAPHER'S LAIR *continued from page 19*

others to do or say things that we know are wrong. And yet, the very people who seek to exert control over our language choices may also control the courthouse or control our assignments. In the above example, the interpreter may not want to appear to be difficult or to be standing in the way of justice. I remember a time in my own career, many years ago, in which an interpreting agency where I worked had a very important contract with a civil defense law firm. This firm (which was our client) had a Hispanic lawyer who always followed my interpretations closely. Occasionally, he even interrupted the deposition and suggested an alternative interpretation. This made me uncomfortable because his firm was giving my agency a lot of business and I did not want to lose the account. But fortunately for me, the points he was focusing on were usually very minor. One time for the word *shoulder blade* he wanted me to interpret *paleta* instead of *omóplato* to the deponent. I accepted the suggestion because the word swap involved two synonyms. But if he had ever tried to twist the testimony, irrespective of whether his firm was an important client or not, I would have stood by my interpretation. Our independence as interpreters is too important to be sold to the highest bidder.

BILINGUALISM OR DIGLOSSIA?

A bilingual person, as the name implies, speaks two languages. The way in which the term has come to be understood in the U.S., it describes a condition in which a person has spoken two languages from a tender age and can express him or herself equally well in both.

Situation: A witness, when asked if he returned a borrowed gun after using it for target practice, is confused by the question as it has been interpreted to him. The interpreter has asked, referring to the gun, “¿Se la devolvió?”. The judge, instead of waiting for the question to be repeated, spontaneously says to the witness in Spanish, “¿Quieren saber si se la distes para atrás!” to which the witness immediately responds in the affirmative. The entire courtroom erupts in laughter, and the interpreter is made to appear foolish for not knowing how to communicate as well as the judge, reinforcing a common attitude that other court personnel have of our abilities.

Background: Those of us in the language field realize that this idea of bilingualism, like that of the judge, is not quite as easy as it looks. For one thing, when someone grows up in this country speaking Spanish at home, there is very little formal training available to help maintain the language beyond the most basic level of communication. There are few schools that really have “bilingual” programs. The vast majority of bilingual programs in the U.S. have really been about “mainstreaming” students; that is, the focus usually is on getting students into English language classes as soon as possible. A good deal of lip service has been paid to bilingualism in the U.S., but no one I know would equate our level of language instruction equality with that of Catalonia (Catalan and Spanish).

Instead, most linguists would argue that really what we have here is a case of diglossia, not bilingualism. Diglossia is a situation in which two languages are widely spoken in the same region.

But the difference is that one language is the language of social, economic, and political privilege, while the other is relegated almost exclusively to use in the home or other informal social settings in the local community. For this reason, the judge speaks impeccable English in court, yet when he feels the need to do so, he speaks what could be termed “street Spanish,” the informal Spanish spoken in many parts of the United States by second generation Hispanics when they are in everyday surroundings with their peers. Often times recently arrived Latin American immigrants’ only communication with “Americans” is through this newfangled language as spoken in the *barrio*. For this reason, immigrants who have been in the U.S. for more than a few days are probably far more practiced at responding to “¿Se la distes para atrás?” than to “¿Le devolvió el arma de fuego?” because it is spoken in North American street Spanish, which has become the lingua franca of many homes, workplaces, and Hispanic neighborhoods.

The “bilingual” court clerk, bailiff, or judge is, however, no substitute for a professionally trained court interpreter. We have been certified via tests that are far more rigorous than those certifying other court personnel. We also adhere to strict ethical standards, are adept at working in all three modes of interpretation (sight, consecutive and simultaneous), and know how to maintain proper voice and register. And so, even though we may be vulnerable to occasional ribbing by other members of the court staff, there are reasons for our choices: and we perform an essential role in helping to provide equal access to justice.

REGISTER AND EMBELLISHMENT

Situation: You are interpreting for the defendant who has opted to take the stand in his own defense. When asked what he does for a living he answers “*soy jornalero*.” You interpret this as “I’m a day laborer.”

His defense attorney strenuously objects, saying that what his client really said was that he is gainfully employed as an independently contracted unskilled worker.

Response # 1: You accept the correction, noting it down for future use.

Response # 2: You defend your interpretation, stating that you correctly maintained the register and refrained from embellishment.

Background: One of the things that separates certified court interpreters from others who have not undergone rigorous testing and training is our ability to preserve register and to abstain from embellishment. Register is the level of language we are employing to express ourselves, either formal or informal, *ya got it?* The linguist Thomas Bertram Reid first used “register” in this sense in 1956, so it’s a surprisingly new term to describe language (Ferguson 1996). Embellishing, on the other hand, is a really old idea. We are all familiar with the concept of the storyteller who embellishes his tale to make things sound more interesting, scary, funny, or sad than they really are. And just like storytellers of old, family members or other amateurs who sometimes act as interpreters often feel a need to add a little (or a lot) extra to their interpretation.

PRO-DROP LANGUAGE

Situation: You are interpreting for a witness in a case where the parents of a little boy are accused of engaging in abusive corporal punishment. The witness is a neighbor lady who may have seen some of this behavior across the backyard fence.

Question from the Prosecutor: Did you see either of them – either the mother or the father – hit the boy?

Answer: [sobbing] *Quería mucho a su hijo.*

At this point you request permission from the judge to inquire (in order to clarify exactly who she is referring to when she says *quería*, the mother or the father?).

Judge: Why do you need to inquire?

Response # 1: You start to stutter, unable to articulate anything intelligible in response to the judge's question. You are dismissed from the case and banned from ever interpreting again in the state of Oklahoma.

Response # 2: You explain that because Spanish is a "pro-drop (also known as 'pronoun-drop') language" and English is not, you sometimes need to ask the witness to specify the pronoun in order to have a meaningful sentence in English.

Background: All Romance languages with the exception of French are pro-drop, while English is non- pro-drop (meaning non-pronoun-dropping, i.e., we spell out the pronoun subject). Romance languages' fully conjugated verbs often make it easier to figure out the subject of a given sentence, while in English, the regular verb is only modified in the third person singular in the present tense and is completely uniform in the past tense. This makes English much more dependent on spelling out a specific subject to clarify the meaning of a sentence (e.g., he, she, they, etc.).

PASSIVE VOICE

Situation: The witness has just stated how he was injured in a robbery. "*Me golpearon bien feo.*" Your colleague interprets this as: "They beat me up real bad." It occurs to you that there may very well have been only one attacker. You attempt to get the interpreter's attention, but he waves you off, thinking you want to relieve him and he still feels fresh. The judge calls a recess several minutes later, and you tell your colleague your reasons for changing the interpretation.

Outcome # 1: You tell him he should just trust you on this one and correct himself on the record. He asks you to explain yourself, and you tell him you have much more experience than he does with these things, and that he should just do it. He tells you that you are not his boss and calls the assignment office to complain about you. During the afternoon session, your colleague once again interprets for the same witness on cross-examination, and the defense attorney is relentless in exposing numerous apparent inconsistencies, focusing especially on how there were first multiple assailants and then just one. In the end, the defendant is found not guilty, mostly because the prosecution's main witness couldn't seem to get his story straight.

Outcome # 2: You explain that, because of the ambiguity of statements like "*me golpearon*" and "*me engañaron*," it's usually advisable to interpret or translate them as "I was beaten" and "I

was cheated," respectively. This is known as the passive voice in English, and its use is far more extensive than in Spanish. We use it whenever we want to de-emphasize the subject. Since in Spanish the subject pronoun was omitted, this is a very good option, and allows you to let others inquire to clear up the ambiguity of who exactly did the beating. Persuaded by your explanation, your colleague corrects himself on the record after lunch, stating that his previous translation was "too literal" for the context, and that a more accurate translation would be: "I was beaten real bad." No one questions this correction, and the rest of the testimony goes without a hitch.

It's one thing to be a great interpreter — and quite another to be able to explain coherently the whys and wherefores of the word choices we make. All of us have been frustrated at times by decisions made in court that affect our ability to best serve LEPs. But if we can clearly articulate our position, we will have a far better chance of persuading court personnel to do the right thing when it comes to language matters. Maybe then others will finally give us the respect we are due within the U.S. justice system.

END NOTE

False friends. This concept is also often referred to as false cognates, but that usage is criticized by grammarians, who say that false cognates are words that look alike and mean the same thing, but do not share the same origin. An example of false cognates would be the German *haben* and the Latin *habere*, both of which mean "to have," even though the two languages are not related.

REFERENCE

Ferguson, Charles Albert, and Thom Huebner. 1996. *Sociolinguistic Perspectives: Papers on Language in Society, 1959-1994*. New York: Oxford University Press.

[Lexicographer Dennis McKenna, whose day job is as a federal and state court certified Spanish interpreter in Los Angeles, has compiled the *Criminal Court Dictionary and the Dictionary of Mexicanisms*.] ▲



Thirty-first Annual Conference
NATIONAL ASSOCIATION OF JUDICIARY INTERPRETERS & TRANSLATORS

For full conference information, including session descriptions, online registration, and additional tickets registration form, please visit www.najit.org