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"VERBATIM INTERPRETATION" REVISITED

Holly Mikkelson

I. INTRODUCTION

The standards of practice of the court interpreting profession, rather than being defined internally, are imposed by statutes and rules of court. There is an inherent conflict between the legal profession's expectation of a "verbatim" or "literal" interpretation and the standards of functional equivalency and meaning-based translation that are now almost universally accepted by translation and interpretation scholars. As we refine our understanding of the interpreting process, it becomes increasingly apparent that the legal community's perception of the role of the court interpreter is outmoded. This article analyzes current legal standards for court interpretation and current theories of interpretation, and proposes solutions to the conflicting expectations.

II. THE VERBATIM REQUIREMENT

The notion that court interpreters must provide a "verbatim" interpretation of proceedings and witness testimony is a pervasive myth within the judiciary. In fact, statutes and rules of court governing court interpretation tend to emphasize the need to convey meaning rather than a strict adherence to the form of the source-language message. For example, the California Standards of Judicial Administration contain no mention of the term "verbatim" or anything similar. Section 18.1 (8) provides, "All words, including slang, vulgarisms, and epithets, should be interpreted to convey the intended meaning." Unfortunately, however, most members of the legal profession are not aware of the distinction between a literal translation and an accurate one. A typical view of the interpreter's role can be seen in an article published in a state bar journal by a trial court judge, who points out to colleagues on the bench:

A court interpreter is charged with the responsibility to literally translate all participants [sic] words.... If I have not chosen simple, clear and concise language and used words which are

capable of a literal translation, I am precluding the interpreter from being able to perform the essential function of literal translation.... Vocabulary typically used in courtrooms must be capable of literal translation.... Judges must be receptive, not defensive, when advised that the defendant does not understand a literal translation (Minder, 1998: 12).

While this judge's desire to use clear and concise language is admirable, she obviously misunderstands the process of interlingual message transfer. Morris (1995: 25-26) reports that the legal profession is suspicious of interpreters who would usurp the judicial function of interpreting the law, given that the term *interpretation* in legal usage is restricted to a process "that is performed *intralingually*, in the language of the relevant legal system, and effected in accordance with a number of rules and presumptions for determining the 'true' meaning of a written document" (emphasis in original). She attributes to this suspicion the common admonition by judges or attorneys not to *interpret* but to *translate*, "a term which is defined, sometimes expressly and sometimes by implication, as rendering the speaker's words verbatim."

III. THEORIES OF INTERLINGUAL COMMUNICATION

The terms *translation* and *interpretation* are often confused by laypersons, as evidenced by the all-too-frequent caption on television news stories, "voice of translator." The term *translation* "refers to the general process of converting a message from one language to another" and also, more specifically "to the written form of that process," whereas *interpretation* "denotes the oral form of the translation process" (González et al., 1991: 295). Thus, the study of interlingual communication, commonly known as translation

> *continues on page 3*

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theory, encompasses interpretation as well. Translation has been the subject of philosophical discussions for centuries. Robinson (1991: 68) traces the debate between free (meaning-based) and literal translation back to Cicero’s time, but notes that most writers were advocating free translation even then. Many of the first written translations were of religious texts, and there was some controversy about whether the Holy Scriptures could be translated faithfully if the structure of the original message was altered in any way. Snell-Hornby (1988) also examines the dichotomy between word and sense in historical debates on Bible translation, in which purists argued that the word of God had to be translated literally. She quotes one writer as saying that a word-for-word translation is like “dancing on ropes with fettered legs” (Snell-Hornby, 1988: 11).

In his overview of translation theory past and present, Vermeer (1994: 6) states that St. Jerome, “the most famous (and successful) translation theorist of the past two millennia,” claimed that translators should focus on meaning, not words, except in the case of the Holy Scriptures, where word order is a “mysterium.”

Other than the concern for faithfulness in translations of religious texts, then, it appears that serious scholars have long recognized that “the task of the translator is not fulfilled with a mere linguistic transcoding of a message on what is generally called the object level” (Vermeer, 1994: 11). Similarly, Snell-Hornby (1988: 49) asserts that modern theorists agree that a literal translation is useless, as “language is not merely a static inventory of items and rules but a multifaceted and structured complex...”

Indeed, Robinson (1991: ix) asserts that the idea of word-for-word translation has always been “a mere straw man” for the “mainstream approach” advocated by translation theorists. He reports that the romantic philosophers theorized about a perfect translation that would be both “word-for-word *and* sense-for-sense” (emphasis in original). This ideal dates back to the cabalists of medieval times, who believed that “absolute cosmic correspondence, translating sense-for-sense, word-for-word, even letter-for-letter, was essential, or more than essential, crucial (anything less meant doom and destruction)” (Robinson, 1991: 88).

What do “mainstream” translation theorists have to say about interlingual communication today? Nida and Taber (1969: 33), regarded as pioneers of contemporary translation theory, analyzed the translation process from a linguistic point of view and identified three stages:

- (1) analysis, in which the surface structure (i.e., the message as given in language A) is analyzed in terms of (a) the grammatical relationships and (b) the meanings of the words and combinations of words; (2) transfer, in which the analyzed material is transferred in the mind of the translator from language A to language B; and (3) restructuring, in which the transferred material is restructured in order to make the final message fully acceptable in the receptor language.

Newmark (1981: 87), who frames the debate in terms of communicative versus semantic translation, places great emphasis on context: “Words as lexical units, it should be emphasized, have only a potential meaning, and it is through the context that this potential is realized.” More recently, Kussmaul (1995: 85) takes a similar approach: “... [W]ord meaning is not an isolated concept but closely related to the context in which the word occurs, to the user of the word and his/her intentions in a specific situation within a specific culture.”

Another contemporary theorist, Lambert (1994: 17), points to the “growing tendency to insist on the extra-linguistic aspects of the translation phenomenon.” Vermeer (1994: 10) notes an increased emphasis on culture in translation theory: “Translation as a cultural product and translating as a culture-sensitive procedure widen the meaning of ‘translation’ and ‘translating’ beyond a mere linguistic rendering of text into another language... As all our behaviour is culture-specific, the ‘goings on’ around a translation are culture-specific, too.”

Snell-Hornby (1988: 41) has noticed the same trend. She states that culture is inextricably linked to language and is an integral part of translation: “... [T]he extent to which a text is translatable varies with the degree to which it is embedded in its own

specific culture, along with the distance that separates the cultural background of source text and target audience in terms of time and place.”

One widely accepted approach is the *skopos* theory, first developed by Reiß and Vermeer (1984), which emphasizes the primacy of target-text function over fidelity. Pöchhacker (1994: 176) sums up the *skopos* theory in this way: “If the interpreter finds that the target-cultural situation requires a different form and extent of ‘verbalization’ (‘textualization’) than the situation of the partners interacting within the source culture, s/he will try to ensure the functioning (or intra-textual coherence) of the target text rather than stick to ‘what the speaker said.’”

In short, it is clear that a literal, word-for-word translation has never been accepted as valid outside a religious context, and even in the translation of religious texts it has been considered an unattainable ideal. Nevertheless, Robinson (1991: 89) describes the stubborn insistence on striving for this impossible goal, summing up the philosophers’ attitude as “So what if it is impossible? *It has to be done!*... It is not something we would sort of like to try to do; it is a messianic imperative, a question of life or death for all humanity. The translator is the romantic savior, charged with the task of undoing the damage done at Babel” (emphasis in original).

It should be noted that although the majority of the works cited above refer to (written) translation, the same principles apply to (oral) interpretation. Interpretation was only recently recognized as a field of study distinct from translation, meriting separate coverage in research (Pöchhacker and Schlesinger, 2002). As the body of research focusing on interpreting, and specifically on court

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interpreting, has expanded, increasing attention has been devoted to the non-verbal aspects of oral communication in interpreted interactions. Examples include Brennan’s (1999) research on sign language interpreters in British courts; Moeketsi and Wallmach (2005), who examined the work of judiciary interpreters of a variety of indigenous languages in South Africa; and Leung and Gibbons (2007, 2008, 2009), who observed interpreters in Hong Kong judicial proceedings. Brennan (1999) found that interpreters used different linguistic approaches, depending on whether they were interpreting witness testimony for the record or proceedings for the defendant. Moeketsi and Wallmach (2005) reported on the hazards of literal interpretation, and cited one case in which it resulted in a wrongful acquittal. More recently, Leung and Gibbons (2009) examined the techniques employed by Cantonese-English interpreters to deal with a phenomenon of the Cantonese language, utterance-final particles, that does not have an equivalent in English. They concluded (2009: 212):

In focussing mainly on European languages, particularly English, the existing literature may have unwittingly created a picture of courtroom discourse centred on grammatical structure and vocabulary. In this paper we have pointed to another type of linguistic resource which, although seemingly insignificant, sometimes even to native speakers of the language, may have a significant impact on courtroom discourse. We hope to have shown that when interpreting from Cantonese into English, interpreters can capture most of the factual and emotive information by resorting to alternative linguistic – very often intonational – devices in English to render the meanings and impact of the utterance-final particles.

IV. THE LANGUAGE OF THE LAW

Perhaps because law and religion are so closely linked in human society, the legal profession tends to have the same reverence for the power of the word as the religious philosophers of St. Jerome’s time did. In his ground-breaking study of English legal usage, Mellinkoff (1963) noted the strong influence of the Church on the language of the law throughout English history. He also emphasized how inflexible legal language is, how resistant to change, which is a natural phenomenon of language:

It is a most refined notion that the law might be something different from *the letter of the law*. The idiom itself is an expression of the more primitive (and recurrent) identification of words with what they refer to. In the beginning, the letter, the word was the law, for it was the magic that worked. ... So the word law, which meant something fixed ..., and the law words which made up the law must themselves be enduring if the law were to endure. If the law were to remain unchanged, then — in Coke’s words — “neither ought legal terms to be changed.” ... Change the word; you lose the law (Mellinkoff, 1963: 437; emphasis in original).

Mellinkoff attributes many of the characteristics of legal language to this fear of change. His work has been discussed extensively elsewhere (e.g., in González et al., 1991), but a list of

subheadings in Chapters II and III provides a compendium of the features he identified:

9. Frequent use of common words with uncommon meanings; 10. Frequent use of Old and Middle English words once in use but now rare; 11. Frequent use of Latin words and phrases; 12. Use of French words not in the general vocabulary; 13. The use of terms of art; 14. Use of argot; 15. Frequent use of formal words; 16. Deliberate use of words and expressions with flexible meanings; and 17. Attempts at extreme precision.

Under Chapter II, Mannerisms of the Language of the Law, the subheadings are eloquent in their simplicity:

18. No monopoly on mannerisms; 19. Wordy; 20. Unclear; 21. Pompous; and 22. Dull. This discussion will focus on the wordiness of legal usage.

Mellinkoff (1963: 25) cites the following examples of verbosity:

| <u>For</u> | <u>Say</u> |
|-------------------|--------------------------------|
| annul | annul and set aside |
| remove | entirely and completely remove |
| will | last will and testament |
| void | totally null and void |
| without hindrance | without let or hindrance |
| document | written document |
| instrument | written instrument |

Although Mellinkoff cited written passages to illustrate his points about legal language, one must recognize that oral discourse in the courtroom resembles written discourse much more than in other settings; that is, there is less contrast between spoken and written language usage in the judicial setting than in other realms of communication (González et al., 1991).

V. PRACTICAL IMPLICATIONS FOR THE INTERPRETER

Given that 1) court interpreters have an obligation to provide an accurate and complete interpretation of messages from one language to another; 2) words have no meaning without context; and 3) the language of the law is full of excess verbiage, it is clear that a verbatim interpretation of courtroom proceedings would be meaningless, if not impossible. In practice, interpreters have learned to disregard instructions from the bench such as “don’t interpret, just translate,” or “just translate word-for-word what he’s saying,” and instead have developed techniques to convey the meaning of the source-language message as precisely as they can within the limits of the target language’s grammar and syntax. González et al. (1991: 16-17) accept the idea of “dynamic equivalence” developed by Nida and Taber (1974), but note that in the courtroom environment, equivalence must be carried one step further, “in that the **form** and **style** of the message are regarded as equally important elements of meaning” (emphasis in original). They contend that the interpreter must

...mediate between these two extremes: the verbatim requirement of the legal record and the need to convey a meaningful

message in the TL [target language]. These requirements — to account for every word of the SL [source language] message without compromising the syntactic and semantic structure of the TL — are seemingly mutually exclusive. However, the dichotomy is resolved by focusing on conceptual units that must be conserved, not word-by-word, but concept-by-concept. To be true to the global SL message, paralinguistic elements such as hesitations, false starts, hedges, and repetitions must be conserved in a verbatim style and inserted in the corresponding points of the TL message (González et al., 1991: 17).

Thus, the notion of a “verbatim” rendition of the message still holds sway, even among those who acknowledge the impossibility of a word-for-word translation. To be sure, the insistence on conveying every element of the message, including extra-linguistic aspects such as hedges and pauses, is based on solid reasoning in the case of interpreted witness testimony. González et al. (1991: 17) point out that “the goal of a court interpreter is to enable the judge and jury to react in the same manner to a non-English-speaking witness as they do with one who speaks English. Also, the legal equivalent provided by the court interpreter **is the record**” (emphasis in original).

This statement refers to witness interpreting. Hewitt (1995: 34) identifies three different interpreting functions: proceedings interpreting, witness interpreting, and interview interpreting. Only the first two are relevant to this discussion, and they are defined as follows:

Proceedings interpretation is for a non-English speaking litigant in order to make the litigant “present” and able to participate effectively during the proceeding. This interpreting function is ordinarily performed in the simultaneous mode. The interpreter’s speech is always in the foreign language, and is not part of the record of proceedings.

Witness interpretation is interpretation during witness testimony for the purpose of presenting evidence to the court. This interpreting function is performed in the consecutive mode; the English language portions of the interpretation are part of the record of the proceeding.

Conveying all the linguistic and paralinguistic aspects of the message is unquestionably important when interpreting witness testimony, so that the triers of fact can judge the credibility of witnesses without being hampered by a language barrier. But is it equally essential in proceedings interpreting? As González et al. (1991: 17) note,

Due process considerations require that the defendant be privy to everything that is said — including any comments said in jest, supposed “off the record” comments, and other exchanges that occur in the course of a courtroom proceeding. The conservation of the complete message as spoken by a witness, judge, or attorney allows the non-English-speaking defendant to make critical judgments about any factual aspects of his or her case. This is the same opportunity offered the English speaker — nothing more and nothing less.

This is why “the court interpreter is required to interpret the original source material without editing, summarizing, deleting, or adding while conserving the language level, style, tone, and intent of the speaker” (González et al., 1991: 16). Presumably, then, in the case of a source message expressed in the legal register, complete with Latin and French terms, wordy and pompous phrases, alliteration, doublets and triplets, an interpreter must convey the target-language message *in the legal register of the target language*. This raises two questions: 1) whether the legal register of other languages corresponds to that of English; and 2) whether every language even *has* a legal register. It is likely that those languages that are not the official language of law and government in a country (as is the case with many minority and indigenous languages) do not have what we would call a legal register, even though they are capable of expressing ideas such as obeying or violating rules, taking things one does not deserve (although notions of owning and belonging vary considerably from one culture to the next), and so forth. If this is so, then an interpreter must use an appropriately formal register (perhaps that used by religious authorities or senior rulers of the society in question). This register may very well not be characterized by the same features of English legal usage identified by Mellinkoff. As long as the interpreter retains the formality and, more importantly, the content of the message, the interpretation will be adequate. Thus, for example, the English expression “to waive and give up each and every one of these rights” might be correctly rendered in some languages with the equivalent of “to give up all these guarantees.”

Assuming a target language that *does* have a legal register, and that it *is* characterized by many of the same features as English legal language — as is true of Spanish and many other European languages (Mikkelsen, 1997) — must an interpreter faithfully render in the target language every single redundant synonym, every ornate and grandiloquent turn of phrase, every flourish of rhetoric in the source-language message? No. There is a concept in translation theory known as “compensation” (Vázquez-Ayora, 1977), whereby the translator offsets the inability to render a particular element of meaning in one part of the text by expressing it in another form in another part of the text. In interpreting, this can be accomplished by changing a conjugation, adding an adjective, or altering the tone of voice (González et al., 1991: 314). For example, the Spanish use of the informal pronoun as a form of address, for which there is no equivalent in contemporary English, can be compensated for when interpreting into English by using the interlocutor’s first name or other features of an informal register such as contractions or casual slang. If the target language does not happen to have three synonyms available for the English phrase “in any way, shape, or form,” for instance, an interpreter can choose a single word but compensate by being more wordy elsewhere in the rendition, or by choosing very formal synonyms.

As noted above, language is inextricably linked to culture, and often the way ideas are expressed in a given language is dictated by the corresponding culture’s view of the concept. Rendering the same idea in another language may require a shift in perspective

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for cultural reasons. Insults are a typical example of the kind of shift required in interpreting. Whereas many insults in Spanish refer to cuckoldry, equivalent insults in English refer to incest or illegitimate birth. Interpreters must be aware of such phenomena and make appropriate adjustments.

Sometimes, however, it is not just a matter of substituting one term for another. A concept in one culture may simply not exist in another culture, and an interpreter must resort to a descriptive phrase to convey the idea adequately. An example of this is the legal term *arraignment*, which refers to a proceeding unique to the common-law system. To render this concept faithfully in another language, an interpreter would have to use a phrase like “initial appearance at which charges are read and a plea is entered.” This is impossibly bulky for simultaneous interpretation, so most interpreters use a phrase such as “reading of charges” or “initial proceeding.” As a result, the interpreted version of a concept can be longer or more wordy than the original, regardless of the register involved.

Sometimes an interpreted version of a message is more verbose than the original simply because of the grammar and syntax of the target language. For example, it is common to turn nouns into adjectives in English simply by placing them in front of another noun; in another language, a prepositional phrase may be required. Thus, “juvenile probation authority” in English becomes *autoridad de libertad vigilada de menores* in Spanish (“authority of supervised release of minors”). It should also be noted that English has an abundance of monosyllabic words, whereas Spanish (and many other languages) have mostly multisyllabic words. In the texts cited later in this article, for example, the English versions have an average of 1.50 syllables per word, while the Spanish versions average 2.16 syllables per word.

Interpretation, unlike translation, is performed in real time; in other words, the message must be delivered immediately to listeners who are present (physically or through video and audio connections) at the time of communication. As a result, particularly when simultaneously interpreting proceedings for a non-English-speaking defendant, an interpreter must take into account 1) the speed of the source-language speaker’s utterances; 2) the grammar and syntax of the target language; and 3) the ability of the listener to process and comprehend the target-language message at a high rate of speed. It may be physically possible for an interpreter to keep up with a judge who is speaking English at 170 words per minute, for example, but it may be impossible for a Spanish-speaking listener to process the information at, say, 190 words per minute, the speed an interpreter would need to maintain to render all of the meaning adequately into Spanish.

Therefore, even in the case of a language such as Spanish, which does have a legal register characterized by many of the features of English legal language, it is possible for an interpreter to render a complete and accurate interpretation *without* translating every single word of the original, even though equivalents exist for those words in the target language. Some examples follow:

1. Advisement of rights

In a typical advisement of rights, the judge may say:

You are not obligated to make any statement here in court, but if you do make a statement, the contents of that statement may be used against you in future legal proceedings [32 words, 45 syllables].

The term *statement* appears three times in this text. A Spanish version that includes every word of the original would read as follows:

Usted no está obligado a rendir una declaración aquí en el tribunal, pero si en efecto usted rinde una declaración, el contenido de tal declaración podrá utilizarse en su contra en futuros procesos jurídicos [34 words, 75 syllables].

A streamlined, but still complete, Spanish version of the same text might go something like this:

Usted no está obligado a declarar aquí, pero si lo hace, el contenido de la declaración podrá utilizarse en su contra en futuros procesos jurídicos [25 words, 54 syllables]. (Translation: You are not obligated to make a statement here, but if you do, the content of the statement may be used against you in future legal proceedings.)

A savings of 21 syllables may not seem very significant, but if an interpreter manages to save 21 syllables and keep the Spanish version closer to the length of the English original during a half-hour proceeding, the difference in time (and breath) can be substantial. Another typical statement in an advisement of rights:

You have the right to an attorney and the right to have that attorney present with you during all court proceedings. You also have the right to have that attorney present with you at any time that you are questioned by an agent of the United States Government. If you do not have the money to hire your own attorney, this court will appoint an attorney for you after you have demonstrated that you do not have the money to hire your own attorney. In order to demonstrate that you do not have the money to hire your own attorney, I will require that you fill out a financial affidavit. That financial affidavit is made under penalty of perjury. If you make any false or dishonest statement in the financial affidavit, you could subject yourself to further prosecution [138 words, 207 syllables].

Unexpurgated Spanish version:

Usted tiene derecho a un abogado y el derecho a que el abogado esté presente con usted durante todas las actuaciones del tribunal. Usted también tiene derecho a que dicho abogado esté presente con usted en cualquier ocasión en la cual lo interrogue un agente del Gobierno de los Estados Unidos. Si usted no tiene los medios para contratar a su propio abogado, el tribunal nombrará a un abogado para usted después de que usted haya demostrado que no tiene los medios para contratar a su propio abogado. Para demostrar que usted no tiene los medios para contratar a su propio abogado, le obligaré a llenar una declaración jurada sobre su estado económico. Dicha declaración jurada sobre su estado

económico se rendirá bajo pena de perjurio. Si usted rinde alguna declaración falsa o fraudulenta en la declaración jurada sobre su estado económico, podría estar sujeto al procesamiento bajo cargos adicionales [150 words, 321 syllables].

Streamlined but complete Spanish version:

Usted tiene derecho a un abogado y a que éste esté presente con usted durante todas las actuaciones del tribunal. También tiene derecho a que esté presente cada vez que lo interrogue un agente del Gobierno de los Estados Unidos. Si no tiene los medios para contratar a su propio abogado, el tribunal le nombrará uno si demuestra que no tiene tales medios. Para demostrar esto, tendrá que llenar una declaración jurada sobre su estado económico, la cual se rendirá bajo pena de perjurio. Si usted rinde alguna declaración falsa ahí, se le podría imputar cargos adicionales [97 words, 195 syllables]. (Translation: You have the right to an attorney and to have her/him present with you during all proceedings of the court. You also have the right for her/him to be present every time an agent of the United States Government questions you. If you do not have the means to hire your own attorney, the court will name you one if you demonstrate that you do not have those means. To demonstrate this, you will have to fill out a sworn statement on your financial situation, which will be done under penalty of perjury. If you make a false statement there, additional charges could be made against you.)

2. Expert witness testimony

In testimony by an expert about the Intoxilyzer, the following statements might appear:

The Intoxilyzer, which is a brand-name for the machine known as a gas chromatograph intoximeter, is a breath-testing machine that has been approved for use by the Department of Public Health for the determination of a blood alcohol level from a breath sample. It is specific use of a general principle known as infrared absorption. If the instrument is operating properly, and if it is operated properly, it will give a print-out on a print card the operator inserts into the top of the instrument. This printed result will correspond to a digital display that is observed on the face of the instrument. It will accurately determine the minimum blood alcohol level of an individual and will accurately determine the amount of alcohol in any given breath sample [131 words, 215 syllables].

Unexpurgated Spanish version:

La Intoxilyzer, la marca de una máquina conocida como el intoxímetro cromatográfico a gas, es una máquina de análisis del aliento que se ha aprobado para que el Departamento de Salud Pública la utilice para determinar el coeficiente de alcohol en la sangre a base de una muestra del aliento. Se trata de la aplicación específica de un principio general conocido como absorción infrarroja. Si funciona correctamente el instrumento, y si se opera correctamente, arrojará un resultado por escrito en una tarjeta impresa, la cual el operador introduce

en la parte superior del instrumento. Este resultado impreso corresponde a un indicador digital que se observa en la faz del instrumento. Se determinará con precisión el coeficiente mínimo de alcohol en la sangre de un individuo, y se determinará con precisión la cantidad de alcohol que existe en cualquier muestra del aliento [141 words, 311 syllables].

Streamlined but complete Spanish version:

La Intoxilyzer, la marca del intoxímetro cromatográfico a gas, es una máquina de análisis del aliento que se ha aprobado para que el Departamento de Salud Pública determine el coeficiente de alcohol en la sangre a base de una muestra del aliento. Se trata de la aplicación del principio de absorción infrarroja. Si el instrumento funciona y se opera correctamente, arrojará un resultado en una tarjeta impresa, la cual el operador introduce en la parte superior del instrumento. Este resultado corresponde a un indicador digital en la faz del instrumento. Se determinará con precisión el coeficiente mínimo de alcohol en la sangre de un individuo, así como la cantidad de alcohol que existe en cualquier muestra del aliento [117 words, 253 syllables]. (Translation: The Intoxilyzer, the brand name of the gas chromatograph intoximeter, is a breath testing machine that has been approved for the Public Health Department to determine the blood alcohol level based on a breath sample. It is an application of the principle of infrared absorption. If the instrument is working and operated properly, it will yield a result on a printed card that the operator inserts in the top of the instrument. This result corresponds to a digital display on the face of the instrument. The minimum blood alcohol of an individual, as well as the amount of alcohol in any breath sample, can be determined accurately.)

3. Motion to suppress

These statements might appear in a typical motion:

In facts very similar to those of *People vs. Hargrave*, Cal App. 3d vol. 212 page 1398, the Court heard the testimony of Officer Gerard in the preliminary hearing, to the effect that he discovered the defendant sleeping in his car, asked him for I.D., searched his wallet, and found the bindle in question. That same year *People vs. Rosales* was also decided. It's found at 211 Cal App. 3d page 325, and there it indicates, in accordance with a number of other cases decided recently, that an officer can approach a person, identify himself as an officer, and ask questions without those acts amounting to a detention [108 words, 170 syllables].

Unexpurgated Spanish version:

Los hechos del caso son muy parecidos a los del Pueblo versus Hargrave, Cal App. 3, tomo 212, página 1398, puesto que se desfiló prueba testimonial del Agente Gerard en la audiencia preliminar en el sentido de que encontró al acusado dormido en su carro, le pidió documentos de identificación, le registró la cartera, y encontró el paquetito en cuestión. En ese mismo año, se dictó fallo en el caso del Pueblo versus Rosales, el cual

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se encuentra al tomo 211, Cal App 3, página 325, y allí dice, de acuerdo con varios otros casos decididos últimamente, que un agente puede acercarse a una persona, identificarse como agente, y hacerle preguntas sin que estos hechos constituyan una retención [116 words, 245 syllables].

Streamlined but complete Spanish version:

Los hechos del caso son muy parecidos a los del Pueblo versus Hargrave, Cal App. 3 tomo 212 página 1398. El agente Gerard testificó en la audiencia preliminar que encontró al acusado dormido en su carro, le pidió documentación, le registró la cartera, y encontró el paquetito. Ese mismo año se dictó fallo en El Pueblo versus Rosales, anotado en el tomo 211 de Cal App 3 página 325, declarando que de acuerdo con varios otros fallos recientes, un agente puede acercarse a alguien, identificarse como agente, e interrogarlo sin que constituya una retención [94 words, 210 syllables]. (Translation: The facts in the case are very similar to those of People vs. Hargrave, Cal App 3, volume 212, page 1398. Officer Gerard testified in the preliminary hearing that he discovered the defendant sleeping in his car, asked him for documentation, searched his wallet, and found the bindle. That same year *People vs. Rosales* was decided, noted in volume 211 of Cal App 3, page 325, stating that according to several other recent decisions, an officer can approach someone, identify himself as an officer, and question him without that being a detention.)

Thus, by making use of ellipses, pronouns, clitics, and other linguistic features of the target language, an interpreter can shorten the output without losing any content of the original message. The Spanish rendition may suffer from a certain lack of elegance, but it does retain the formal legal register of the original (and much of the English is not so elegant in any case). By eliminating some of the excess verbiage without omitting any meaning, an interpreter can speak a little more slowly, hence intelligibly, enabling the defendant to follow more easily. After all, the reason the interpreter is there is to allow the defendant to be “present” at the proceedings, to hear everything he would have heard if there were no language barrier. The language of the courtroom, though complex and arcane at times, is spoken at intelligible speeds in English; a non-English-speaking defendant should be afforded the same facility.

VI. CONCLUSION

The idea of the “verbatim requirement” for court interpreters is a myth that should have been debunked long ago. There is nothing in the literature on translation theory or interpretation studies, or even in statutes or rules of court governing interpreting, that requires a literal or word-for-word translation. It is high time judges and lawyers realize this and stop instructing interpreters to “not interpret, just translate everything literally.” Interpreters should not be afraid to use common sense and good judgment in determining how to render courtroom discourse into the defendant’s language in an efficient and intelligible manner, while retaining all necessary elements of meaning and style.

VII. REFERENCES

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