

Behind the Language Barrier, or “You Say You Were Eating an Orange?”

William E. Hewitt and Robert Joe Lee

The question put to the witness by counsel is:

*Now, Mrs. Peña, you indicated that you live in
East Orange, at 5681 Grand Street?*

The question heard in Spanish by the witness,
via the interpreter, is:

You say you were eating an orange?

Court interpreters make it possible to take evidence from witnesses who do not speak English, and they deliver a cornerstone guarantee of our Constitution to non-English-speaking litigants: the right to be “present” during their own trial and participate in their own defense. The interpreter has a twofold duty: (1) to ensure that the proceedings in English reflect precisely what was said by a non-English-speaking person and (2) to place the non-English-speaking person on an equal footing with those who understand English. To fulfill these duties, the interpreter must conserve every element of information contained in a source language communication when it is rendered in the target language. In simplest terms, the job of the court interpreter is to render everything said in the source language into the target language accurately and completely.

In the example that opens this article, it is evident that the purpose of having an interpreter is utterly lost. In that example, what the witness hears from the attorney (through the interpreter) bears no relationship to the actual question. That extreme example may try the reader’s credulity (although it represents an actual performance by an interpreter in a testing situation). It seems incredible that this type of misinterpretation would go unnoticed in a trial setting or that an

**Canon I
Code of Professional Responsibility for Court Interpreters:
Accuracy and Completeness**

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

interpreter this bad would be permitted to continue in the case. (Unfortunately, documented cases of unnoticed or uncorrected errors as extreme as this one are known to the authors.) Following is another, less heinous, interpretation.

“Now, Mrs. Peña, you indicated that you live in East Orange, at 5681 Grand Street?”

“You told me that you lived in the west of Orange, at 56 Grand Street.” (translation)

In this example, where the error is not absurd, the ill-effect on a court proceeding is more insidious, how much confusion will need to be sorted out as a consequence of the interpretation error before the examination productively resumes? And what impressions will the jury form of the witness (or the attorney) in the meantime?

How Many Bilingual People Are Qualified to Interpret in Court?

It is easy to forget what we know about the complexities of language and underestimate the difficulty meeting the requirements of a court interpreter’s job. It is easy to take for granted that any bilingual person is capable of doing what we expect court interpreters to do. In fact, very few bilingual individuals who are called upon to work as court interpreters have the knowledge and skills required to achieve what is expected of them. In the examples above, what specific challenges have the interpreters failed to meet? In the opening example, it is evident that the interpreter’s command of the languages is deficient. The extent of the person’s bilingualism itself is questionable. In the second example, the failure relates not to knowledge of language, but to basic cognitive abilities that are essential to the interpreter’s craft. In order to correctly render rote-facts (like numbers and names), the interpreter must pay close attention to detail while listening and then conserve the detail for later recall with an excellent short-term memory. Figure 1 is a schema depicting eight cognitive activities that take place when interpreters do their work.¹ In the second example, only two of the activities of the schema—listening (paying close attention to detail) and storing ideas (short-term memory) are emphasized. Other language features—idiomatic speech, for example heavily tax the interpreter’s skills across all eight dimensions of the schema. Many interpreters perform poorly when they interpret in court because they do not know what is expected of them. They have no formal training in the responsibilities of the court interpreter. Among the implications of Canon I of the Code of Professional Responsibility for Interpreters in the Judiciary are the following, which are reviewed and discussed in detail in training workshops for court Interpreters:

[I]nterpreters are obligated to apply their best skills and judgment to preserve faithfully the meaning of what is said in court, *including the style or register of speech*. Verbatim, “word for word,” or literal oral interpretations are not appropriate when they distort the meaning of the source language, but *every spoken statement, even if it appears nonresponsive, obscene, rambling, or incoherent should be interpreted*. This includes apparent misstatements.

¹ The schema substantially oversimplifies scholarly models of linguistic cognitive operations that are involved in transferring a message from one language to another. See, for example, the models by Cokely (Figure 3), Gerver (Figure 4), and Moser (Figure 5) in Roseann D. Gonzalez, Victoria C. V-squez, and Holly Mikkelson, *fundamentals of Court Interpretations: Theory, Policy and Practice* (Durham, NC.: Carolina Academic Press 1991), 319-321

(Commentary to Canon 1, Code of Professional Responsibility for Interpreters in the Judiciary, emphasis added)

Figure 1
Cognitive and Motor Skills

The interpreter . . .

1. Listens
2. Comprehends
3. Abstracts the message from the words and *word order*
4. Stores ideas
5. Searches for the conceptual and semantic matches
6. Reconstructs the message in other language
7. *While* speaking and listening for the next chunk of language to process
8. *While* monitoring his or her own output

Figure 2
The Problem of Idioms and Slang . . .
. . . and obscenity

"the third time he goes up to him, he gives him the finger. I mean, this is not somebody who's trying to remain cool. What he did, he gets into the fray, right in the guy's face, nose to nose with him, and says, 'You're a punk, motherfucker!'"

Source: A California municipal court trial transcript.

In light of the foregoing, consider the challenges offered by the text in Figure 2. Is an ordinary bilingual speaker of English and Spanish, say, likely to be able to handle the idioms in the passage? What will an untrained person do with the obscenity? Will it be preserved? If not, what effect might this have on the evidence presented to the trier-of-fact?

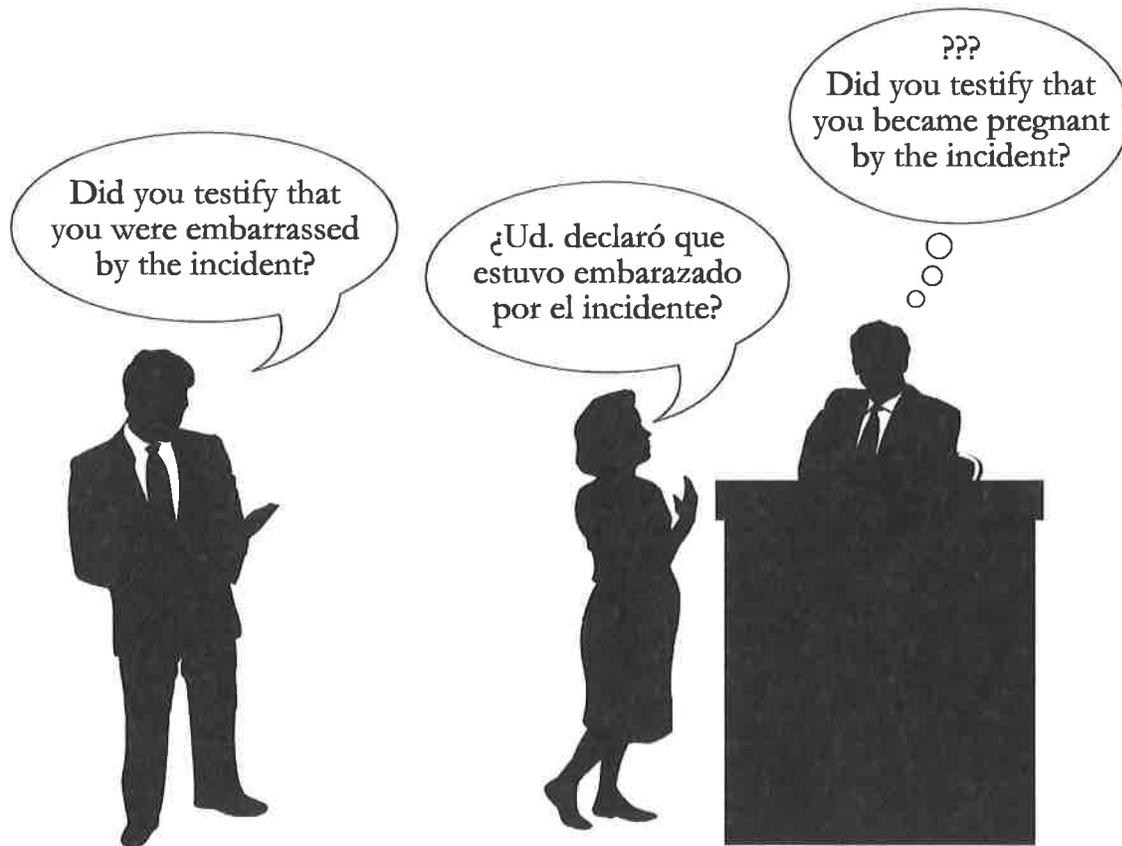
The purpose of this article is to demonstrate and to concretely illustrate both the extent and the nature of the deficiencies in interpretation that courts should expect when they use "interpreters" who are not properly trained and have not passed a proficiency test. We do this by analyzing the performance of individuals who have taken court interpreting proficiency tests. Court interpreter proficiency tests simulate in a controlled way the work that interpreters do in court. As

such, they provide a good source of information about what goes on behind the language harder during court interpretation. Figure 3 illustrates one unfortunate phenomenon often discovered through testing. Unqualified bilingual individuals who interpret in court may be trapped by false cognates—words that sound the same in two languages but have very different meanings.

Pass Rates on Court Interpreting Proficiency Tests

Carefully developed court interpreting proficiency tests have been used in the federal courts and the states of California, New Jersey, and Washington for several years. An analysis of the numbers of individuals who have taken and performed satisfactorily on those examinations helps us

Figure 3
The Problem of False Cognates



find out how many bi-lingual people are qualified to interpret in court. Table 1 summarizes test results fur Spanish language interpreters. The pattern evident in Table 1 is that very few people

who take interpreting tests are able to pass them.² Passing rates vary from 3.6 to 12.5 percent. Is the pattern any different for other languages? No, it isn't Table 2 shows the limited data that are available in a few states for other languages. Pass rates on the tests are nearly always lower than 10 percent.

What conclusion is suggested by Tables 1 and 2? What explains these low passing rates? Are the tests fundamentally flawed and unfair to the people who take them? Do they mislead us about the quality of the work most of these people do when they serve the court as interpreters? Our answer is "no." We suggest that the low passing rates are better explained by the inherent difficulty of the work and by the lack of professional training among those people whom courts use to provide interpreting services. In our view, very few bilingual people pass the tests because very few bilingual people who think they are qualified to interpret in court (or who someone else thinks are qualified) actually are qualified. 'the tests are doing the job they were intended to do.

Table 1
**How Many Practicing Spanish Interpreters
Are Able to Pass a Skills Tests?**

Jurisdiction	Total Number Tested	Total Number Passing	Percent with Passing Scores
California	2,498	98	3.9%
Federal Court	15,588	559	3.6%
New Jersey	977	78	8.0%
Washington	1,176	147	12.5%

Note: The figures for California are from January 1991 to April 1993; for federal court, as of February 24, 1995; for New Jersey, as of March 21, 1995, and for Washington, as of February 23, 1995.

Sources: University of Arizona; Cooperative Personnel Services, State of California; Administrative Office of the New Jersey Courts; and Office of the Administrator for the Courts, Washington.

² The reasons for differences among reported pass rates on the tests are complex and have never been systematically examined. Many factors probably contribute: differences in the way test records are kept, differences in demographics, emphasis on recruitment and training, relatively minor differences in the testing program itself, "pass/fail" standards, etc. We do not believe that these factors suggest any important functional differences in the testing instruments.

Table 2

How Many Practicing Interpreters in Languages Other Than Spanish Are Able to Pass an Interpreting Skills Test?

Jurisdiction	Language	Total Number Passing	Percent with Passing Scores	Percent with Passing Scores
Federal Court	Navajo	104	9	9%
	Haitian Creole	339	13	4%
New Jersey	Haitian Creole	27	2	7%
	Portuguese	55	9	16%
Washington	Cambodian	55	4	7%
	Cantonese	52	5	10%
	Korean	72	6	8%
	Laotian	261	1	4%
	Vietnamese	116	11	9%
Total Other Languages		846	60	7%

Notes: Sources are the same as given in Table 1. Information on passing rates for languages other than Spanish is not available from California.

As evidence of the ways in which interpreters who fail interpreting tests distort the meaning of the source language message when they render it into the target language, we offer a series of typical examples. Becoming familiar with the illustrations illuminates the testing process for the reader by showing what test raters count as errors when tests are scored. Having an understanding of the test structure, content, and construction processes is also useful for settling misgivings about the validity of the tests. A brief description of what the tests are like and how they are developed is found in the next article.

**Inside a Test—
A Sampling of Errors**

To gain an appreciation of the kinds of errors unqualified interpreters make, let us look first at examples of a single scoring unit to see how it is rendered by many different people. The first example is the familiar “Mrs. Peña ” illustration, which is included to show the different ways that a rote-fact item (an address) and the sentence containing it can be gotten wrong. The underlined phrase “5681 Grand Street,” is the scoring unit in this sentence. For the candidate to get credit for the scoring unit, he or she need only render the address correctly into Spanish. Any other problems with the rest of the sentence are ignored by the raters as they listen to the interpreter’s performance. To take us behind the language barrier, we show, using experts’ English back-translations, how the interpreter put the question into Spanish. About one-third of the people who took this test did say the address correctly in Spanish.

The second example also appears in the witness testimony part of the exam, but is taken from the witness's portion of the colloquy. It is an idiomatic expression in Spanish that would properly be rendered in English as "It sure did!" or "Did it ever!"³ What is obviously important for the interpreter to preserve in the witness's idiomatic answer is not just the affirmative response, but the conviction with which it is uttered.

The third example is also taken from a Spanish response during the colloquy. The scoring units in the text (underlined phrases) are selected to test knowledge of general vocabulary ("the passenger side") and an idiomatic expression in Spanish ("in case anyone heard"). Again, candidates can make mistakes in interpretation on other parts of the sentence and still get credit if they get the scoring unit itself correct.

Example #1.

"Now, Mrs. Peña, you indicated that you live in East Orange, at 5681 Grand Street?"

"5681 Grand Street" was interpreted correctly by
32%
of the people who took this test

Translations:

1. "You say that you live in East Orange."
2. "You told me that you lived in the west of Orange, at 56 Grand Street."
3. "Now, you told me that you lived at 4581 East Orange."
4. "Em, em, I live at 58 on, on Hunt Street."
5. "I understand that you said that you lived in West Orange."
6. "And tell me whether you live on, on Grand Street, Señora Peña."
7. "You live in East Orange at 81 Grand Street."
8. "You indicated earlier that you lived at 5681 Grant Avenue in East Orange. Is that right?"
9. "I understand that you live in East Orange, on the street, at number 5681."
10. "You say that you were eating an orange?"

³ If the Spanish idiom were rendered literally (or "word for word" into English), the result would be something like "I already believe it" or "I now believe so."

Example #2

Q: "Now, at that time, or shortly thereafter, did anything unusual occur?"

A: "It sure did! I heard a loud crash, that seemed to have occurred right there."

"It sure did!"
was interpreted correctly by
37%
of the people who took the test

Translations:

1. "I believe so."
2. "Yes, I believe."
3. "She says yes, obviously there was . . ."
4. "I, I, yes, I believe so."
5. "Yeah."
6. "Yes, I Believe that."

Example #3

"Well, they broke a window, the one on the passenger side,
and they told me to keep a look out in case anyone heard the noise of the glass."

"The passenger side"
was interpreted correctly by
64%
of the people who took the test

"in case anyone heard"
was interpreted correctly by
32%
of the people who took the test

Translations:

1. "We go to the car and one of them broke a window and they told me to watch while we all, while we were in the car."
2. "Well, they broke one glass and they told me to be on the look out to see if somebody came."
3. "Well, they both broke one of the window, window doors and then they, they ask me to be there if any person came by."
4. Well, they break out one of the windows from the driver's side and they said to watch if there, if they see somebody."
5. "Yes, they broke the opposite window from the driver's seat. They told me to look out just in case anybody wou' arrive."
6. Well, we went there and one broke the drive, the window on the driver's side, and the other one told u', told me to watch just to hear if anybody was coming."
7. "O.K., uh, they broke the passenger window and told Mr. Herrera to watch out in case, uh, somebody comes over, to act as a lookout."
8. "Well, ah, one of them broke the window from the passenger side, and the other one told me to look just in case that somebody had been looking around."
9. "Well, uh, he broke somethin' off the car?"
10. "Well, we broke the passenger side window, and they axed [phonetic] me to cover and watch for them while they did what they had to do."
11. "Well, they, they broke the window and they told him to watch out so nobody would hear or see why the glass was broken."
12. "Well, they broke the window by the, ah, driver's side and they told me to be on the lookout for somebody-come."
13. "Well, he told me to watch the glass and to hear if there's any passenger coming by."

But What About *Experienced Bilingual People Who Take Interpreting Tests?*

In the preceding examples, we examined a single scoring unit to see the many ways it could be misinterpreted by different people. We had no way of knowing how much experience these people had. In examples 4, 5, 6, and 7, let us examine the performance of four different individuals whom we do know something about. In fact, they apparently have very good qualifications. Each example contains a summary of the interpreter's experience, the interpreter's overall score on the test, and illustrations of the kinds of errors for which the interpreter was penalized in scoring.

Example #4

Salaried staff interpreter with 38 years of experience

Overall test score:
44%
correct scoring units

Text to be Interpreted

Now, there were no injuries in this accident.

... but thought nothing of it.

It had to be dark.

... continuing to harass him.

Interpretation

Now, there were no insults in this accident.

... but did not think about it at all.

It was dark.

... continuing to offend him.

Example #5

Salaried staff interpreter with 22 years of experience

Overall test score:
36%
correct scoring units

Text to be Interpreted

I was on the second floor, in my bedroom.

Were you able to actually see ...

There was a very big crash ...

... a shotgun

Interpretation

I was on the second floor, in my dormitory.

Were you able to presently see ...

There was a car accident ...

... a firearm

Example #6

Staff court interpreter with 12 years of experience

Overall test score:
29%
correct scoring units

Text to be Interpreted

... but thought nothing of it.

It sure did!

And could you tell us what floor you
were on at about midnight.

There were rocks thrown.

... where you able to actually see where
the broken glass had come from?

I don't intend to rehash the evidence.

Interpretation

... but took nothing out.

Yes, I think so.

And can you tell me what floor you
Were on at midnight.

Rocks were not thrown.

could you see where they broke
the glass ...

I don't intend to hear the evidence.

Example #7

Lawyer and freelance interpreter with 12 years of experience

Overall test score (took test twice):
41% and 41%
correct scoring units

Text to be Interpreted

I met Mr. Torres five years ago ...

I looked for a jacket that I had just brought.
I hadn't put it on yet, and it was missing.

Well, because at one time we were
sweet-hearts.

\$3,500

Interpreted

I knew Mr. Torres five years ago

I picked up a jacket which I had not
Worn then and I put it on.

Yes, we were friends at the time.

\$35,000

Conclusion

Are the linguistic and cognitive challenges that court interpreters face sufficiently difficult that the work should be entrusted to trained and properly qualified professionals, not just to anyone who is bilingual to some (usually unknown) degree? We believe the answer to that is very clearly “yes!” Courts should do everything reasonably within their power and limited resources to encourage professionalism among the bilingual individuals they must rely on for interpreted proceedings. This involves formal training for all interpreters and, above all, implementing interpreting proficiency testing programs in the languages courts most frequently encounter. To do less is to systematically do less than justice to everyone who comes before the court lacking full competence in the English language.

REFERENCES

Gonzalez, Roseann D., Victoria C. Viquez, and Holly Mikkelsen. *Fundamentals of Court Interpretation: Theory, Policy and Practice*. Durham, N.C.: Carolina Academic Press, 1991.