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Interpreters and their Impact on the Criminal Justice System: The Alejandro Ramírez Case

Isabel Frammer

In April 1998, I gave a presentation at a Continuing Legal Education seminar for the Ohio Hispanic Bar Association. My topic was "Standards, Training and Certification of Interpreters in Ohio." I had for some time been advocating the certification of judiciary interpreters and had had conversations with the Administrative Director of the Ohio Supreme Court concerning the impact of interpreting errors. Another presenter at the seminar, Veronica Dalhberg, spoke on behalf of the Alejandro Ramírez Defense Coalition. I listened to her presentation intently and with disbelief. I knew then that the Ramírez case would some day help to bring about the changes that are needed within the judiciary interpreting profession in Ohio.

The story she told goes as follows:

Alejandro Ramírez, a 20-year-old Mexican national who had arrived in the United States for the first time in January 1997, was arrested for the shooting and killing of a 35-year-old male intruder. Ramírez shared a home with eleven other Mexican immigrants, some of whom were undocumented. On the evening of May 7, 1997 some household members were partying and drinking heavily. Ramírez became drunk and fell asleep, and his roommates had to carry him to bed. A male intruder, whom witnesses described as appearing to be high (a toxicology report showed that he had traces of cocaine in his system), came into the house. One of the house mates, Alejandro Vargas, ordered the intruder to leave, pushing him out. Vargas noticed his cousin and another house mate, Germán Muñoz, holding two of Vargas' guns (he owned four). Muñoz pulled the trigger, but since the gun was not loaded it did not fire. Vargas heard a voice that he identified as his cousin's and then heard a shot. The wounded intruder collapsed on a nearby lawn and later died at a hospital, but the members of the household did not learn until much later of the death of the intruder. Ramírez woke up from a loud discussion occurring in his room. Some of the men were discussing who would take the blame for the shooting. Most of them had family to support and Alejandro Ramírez did not. He was asked by others to take the blame, was told that the intruder had not been

seriously hurt, and that he, Ramírez, would only get deported. No one in the house spoke English except for Alejandro Vargas. When the police arrived, Vargas explained to the police what had happened. Ramírez was arrested.

Police brought in a woman named Jennifer Rodriguez, who had interpreted for them on other occasions. Rodriguez had taken less than two years of Spanish in college, had not had prior training in judiciary interpretation and was not fluent in Spanish. Alejandro Ramírez was later indicted and the matter proceeded to a jury trial.

The prosecution hired a professor of language and literature from a local college to transcribe and translate the recorded interrogation. Not trained in legal translation or interpreter/translator ethics, she later admitted to transcribing and translating the Miranda Warning (as given to Alejandro Ramírez by Jennifer Rodriguez), so that it would make sense. For nonsensical or incorrect words, the professor substituted words that would have made more sense--had they been said. When she gave testimony at the trial, she stated that if she could understand what Rodriguez meant, so could Alejandro Ramírez. Her "sanitized" version of the advice of rights is the one the attorney, prosecutor, judge and jury saw.

Veronica Dalhberg, a bilingual Mexican American, was an advocate for the rights of Hispanics in the jails. Alejandro Ramírez' girlfriend heard about her and approached her with the case. Dalhberg contacted an attorney she knew and asked him if he would work on the case pro bono. The attorney accepted. He used Dalhberg to interpret for him during interviews, and that is how she heard the tape for the first time.

Dalhberg listened to the recording; she was outraged and publicized the case to the media and the community. A defense coalition was formed and she served as the defendant's interpreter. When the case went to trial, a secretary for the county probation department acted as the prosecution's interpreter.

The defense coalition claimed that the prosecutor's interpreter provided a very poor interpretation of the trial testimony for Alejandro Ramírez. Ms. Dalhberg brought this fact to the judge's attention, but she was told to sit down and keep quiet. Ramírez was found guilty of murder and sentenced to an indefinite prison term of 15 years to life with a three-year additional consecutive sentence for the firearm specification.

Ms. Dalhberg had heard my presentation at the Ohio Hispanic Bar seminar and called to ask my opinion of the way the Miranda Warning had been interpreted to the defendant. The following, as can be seen from portions of the transcript, are just some of the problems with the interpretation: the interpreter omitted, mispronounced and misused words of the Miranda Warning as given, spoke in the third person and answered on Mr. Ramírez' behalf without asking him first.

Q: Jennifer Rodriguez is a translator...and we are going to advise Alejandro of his rights in, uh, Spanish.

Interpreter: O.K. Alejandro, aquí son sus derechas abajo la ley. O.K.? El señor Lutha es una

policía.

Answer: ¿Cómo?

Q.: [Reads the Miranda Warning]

Interpreter: Eh, usted tiene la derecha de que algo... que usted, uh, va... puedes usar contra usted una corte de la ley. Usted tiene la derecha absoluta para quedarse en silencio si usted prefiere. Usted tiene la derecha a dar visa de abogado antes y usted también tiene la...uh.. derecha con la presencia de un abogado aqui con usted durante las preguntas. y también si usted no puede pagar para un abogado es posible para tener un abogado. O.K.? Sin pagar antes las preguntas. OK? Entiendes usted todas esos derechas abajo la law?

A: Si.

Interpreter: O.K., bueno. He does understand his rights as I have read them.

Q: O.K. Does he... does he know that he doesn't have to have to talk to us. right?

Interpreter: That's right.

Q. ...That he can have an attorney?

Interpreter: Yes. That is correct.

Q. Ask him does he want to make a statement without a lawyer.

Interpreter: Alejandro, ¿quieres, uh, hablar un poquito...

Q: Ask him the question.

Interpreter: ...Y por el incidente sin un abogado o prefieres que usted tiene un abogado?

A: Oh! Sí, sin abogado.

Interpreter: O.K. He will talk without the presence of a lawyer.

Q: Alejandro, see what this... This is the Rights card that you read if... So he knows that...

A: ¿Cómo?

Q: Es en inglés.

Interpreter: Necesitamos tu firma, por favor, Alejandro. Aquí, en la carta. Esta es una carta de... Con la inscripción de...[ininteligible]... Y de tus derechas.

Q: We should have one in Spanish, huh? O.K.... Does he does he know that he doesn't have to--have to talk to us, right?

Interpreter: That's right.

Q: That he can have an attorney?

Interpreter: Yes. That is correct.

During the interrogation, the interpreter asked her own questions and because she didn't understand Ramírez's answers, she gave the officer misleading information.

The coalition appealed the conviction, and Ms. Dalhberg again contacted me for advice. I reviewed all the interpreting issues with the attorney for the Mexican Consulate and provided an accurate translation of the Miranda Warning.

The Mexican consulate then filed an amicus brief. The amicus brief referred to the Vienna Convention, errors made by the interpreter, and the fact that if the consulate had been notified they could have assisted with a competent interpreter and with tracking down potential witnesses who had fled to Mexico. An appeals brief was also filed.

On December 27, 1999, the Eleventh District Court of Appeals, Lake County, overturned the conviction. The Court's decision reads in part as follows:

Appellant timely filed a notice of appeal and has now set forth the following assignment of error:

1. The trial court erred in denying Defendant's Motion to Suppress where (1) it is undisputed that the defendant could not speak, read, write or understand a single word of English, (2) the translator deployed to orally translate the requisite Miranda warning into Spanish made numerous translation errors which rendered the warnings confusing and meaningless, (3) the Spanish translation never apprised defendant that he had a right to free counsel and that anything he said could be used against him, and (4) when the interrogating police officer asked if the defendant knew he had a right to remain silent and to counsel, the translator never addressed the defendant, but simply gave her own personal conclusion that the defendant knew and understood these rights.

2. Defendant was denied his rights under article 36 of the Vienna Convention on Consular Relations (1) to have the assistance of the Mexican Consul at the time of his interrogation and throughout the ensuing criminal proceedings and (2) to be informed of these rights by the arresting authorities without delay when he was detained and taken into custody.

3. The conviction should be reversed because Mr. Ramírez was denied the effective assistance of counsel.

4. The lower court erred in denying defendant's motion for a continuance of three hours to

present expert testimony on the issues of bullet trajectory and police procedures. In the first assignment of error, appellant contends that the trial court erred in denying his motion to suppress because he did not knowingly, voluntarily or intelligently waive his Miranda rights before giving an oral and a written statement to Painesville Police. Specifically, appellant maintains that the state's attempt to give him Miranda rights was unsuccessful due to a poor translation by Ms. Rodriguez.

We agree.

The opinion goes on to point out the translation errors, as well as the comment and corrections made by the professor regarding the transcript and translation. The opinion concludes as follows as to the remaining assignment of error:

It is appellant's contention that 'Article 36(1) of the Vienna Convention on Consular Relations, April 24, 196., TIAS 6820, 21 UST. 77, guarantees an alien arrested on a criminal charge a right to be informed of the right to contact the consul of his home nation.' It is undisputed that the appellant was never informed of his right to contact the Mexican consulate. However, based upon our decision regarding appellant's first assignment of error, all remaining assignment of errors are moot and need not be addressed pursuant to App. R. 12(A)(1)(c). Any opinion offered with respect to any other issue raised would be merely advisory. We note that if the Vienna Convention had been complied with in this case, the error detailed in appellant's first assignment of error would have been avoided. First, a competent translator would have been present to ensure that appellant's rights were not violated. Second, the American legal system would have been explained to appellant who, as a Mexican national, had not been exposed to the nuances of our justice system the way that most Americans are through the intense media saturation that exists in this country. Finally, the Mexican consul could have assisted in tracking down potential witnesses who had returned to Mexico between the time of the incident and the time of trial. As the Supreme Court of Ohio stated long ago, it is 'the imperative duty' of the judicial tribunals of Ohio to take cognizance of the rights of persons arising under a treaty to the same extent as if they arose under a statute of the state itself.' *State v. Vanderpool* (1883), 39 Ohio St. 273, 276-277.

Accordingly, for the reasons stated herein, the trial court erred in overruling appellant's motion to suppress the statements he gave to police. Thus, appellant's first assignment of error is sustained. Appellant's second through fourth assignments of error are moot.

The judgement of the trial court is reversed, and the matter remanded for further proceedings consistent with this opinion.

As we all know, the interpreting and translating issues highlighted above are more likely to occur in states that do not provide standards, training and certification of judiciary interpreters.

The Ramírez case is opening the eyes of many in Ohio. Being bilingual or merely having studied some Spanish is not sufficient for being a court interpreter. Lack of knowledge

about the field is rampant. Standards, training and certification are the solution. Educating the legal profession benefits all sides.

Ohio is now actively studying the issues related to competent interpretation. Judge Ron Adrine, chair of the Racial Fairness Commission, and I have been working together to promote professional standards. The Commission recently recommended that the issue of certification be submitted to the Ohio Supreme Court. This path is the one that most states that have to set standards and implement certification testing have taken. Interpreter certification has become a priority with the Supreme Court of Ohio.

I hope that all states that currently do not provide standards, training or certification will join in promulgating standards, training and certification of interpreters so that a corps of qualified, competent interpreters can be created to serve their courts well into the future.

Isabel Framer is an interpreter and translator in Akron, Ohio.

Editor's Note: On March 11, 2000 Mr. Ramírez pled guilty to one count of involuntary manslaughter. Observers noted that the proceeding was not simultaneously interpreted to Mr. Ramírez.

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