

The Lessons of the Mendez Case: Suggested Transcription, Translation and Interpretation Assessment Methodology for the Courts



Dr. Alex Rainof

The appeal of José Luis Méndez from his Arkansas state court conviction, *Mendez v. State*, 2011 Ark. 536 (Supreme Court of Arkansas 2011), was based on a classic case of "he said / he said," and the costly transcription, translation, and interpretation issues relating to this case are far from unusual. The accumulation of often occurring and highly preventable mistakes once more confirms that "those who cannot remember the past are condemned to repeat it" (Santayana, 2011). It is surprising and somewhat disheartening to see bench officers as well as prosecution and defense attorneys (whose entire corpus of knowledge is informed by precedents) continue to make the same mistakes when trying to obtain translated and interpreted evidence.

Detective Jared Pena, who was described as Spanish-speaking, interviewed the defendant and appellant in the case, José Luis Méndez. The interview was recorded, transcribed and translated by two different people, one an employee of the prosecutor's office (Joseph Thomas), the other an Arkansas certified court interpreter contracted by the defense (Nicolas Durand). The two translations varied from each other and in one crucial instance were diametrically opposed. When Detective Pena asked Mr. Méndez if he had tried to kill Ms. Guervara, the prosecution employee, who not only was not certified but had taken the Arkansas certification examination and failed to pass it, translated the reply as "I did that." In contrast, the defense interpreter, certified in Arkansas, rendered the reply as "I didn't do that." The trial court admitted both translations, ruling that "... which version to credit was a matter for the jury." Mr. Méndez was sentenced to sixty years in prison, appealed, and the Arkansas Supreme Court reversed and remanded the case.

The aforementioned Supreme Court decision is based on error of law, that is, the trial court's ruling to admit both translations was a procedural error and "the State's translation should not have been admitted." The Court further held that "the introduction of the noncertified translation [and appellant's admission of guilt therein] was not harmless." (*Mendez v. State*, 2011) Nevertheless, in this author's opinion, the errors relating to translation and interpretation issues were just as egregious, and they were not addressed appropriately.

First, the Prosecution never should have allowed a non-certified employee to transcribe and translate any evidentiary recording, particularly given the nature of the charges (rape, attempted murder, aggravated residential burglary, and aggravated assault). It is difficult to believe that the prosecution was unaware that their employee not only was not certified, but that he had failed the certification examination. Likewise, the trial court's admission of evidence that did not comply with legal standards was highly irregular.

The issue in this particular case arose from the difficulty in determining if the defendant said "*yo lo hice* (I did it)" or "*no lo hice* (I didn't do it)". The approach taken by the defense translator (Durand) demonstrates a professional methodology not present in that of the opposing translator (Thomas). Durand, a certified interpreter for the State of Arkansas, testified that the use of *yo lo hice* seems awkward coming from a native speaker of Spanish. (*Yo lo hice* is a calque from English, since it is not necessary to state the subject pronoun in Spanish.) Durand's search for similar linguistic structures throughout the transcript supports his interpretation and systematic, professional methodology.

Cases such as *Mendez*, in which a mistranslated word can have such far-reaching consequences, abound. Twenty years ago, this author was involved in a second-degree murder case in California that presented a similar issue. In this case, the mistranslation of a word could have cost a Cuban woman twenty years of her life. The woman, who was working as a waitress, met a drug dealer and moved in with him. From the very first he started abusing her. After a year of beatings, she decided to leave him and asked for money for a plane ticket to Miami. When he refused, she got his twelve-gauge sawed-off shotgun from the bathroom, along with a round which she tried to chamber several times. Somehow, she managed to load the weapon which then discharged, killing her tormentor on the spot.

Later on that same day, a detective interrogated the woman and the interview was taped. The woman was upset and spoke with a heavy Cuban accent, and due to the fact that the detective's Spanish was generally poor and very anglicized, the key passage where the woman tells what happened just before the gun went off was difficult to understand. Three of the four interpreters transcribing the case for both the prosecution and the defense felt that the key passage was mostly unintelligible. Just as in *Mendez*, the whole case revolved around one specific word, which in this case sounded something like "eo." The Spanish statement came out something like "*cuando vi que tenía puesto el eo, se lo quité*" [When I saw that he had the *eo* on it, I took it away]. The two interpreters hired by the prosecution felt that the "eo" word was *seguro* (safety) while the second interpreter for the defense, the author of this article, felt the word was *dedo* (finger). If the woman knew what a safety was and how to take it off, then the firing was intentional and the second-degree murder charge would be valid. Conversely, if the drug dealer extended his arm until his finger (*dedo*) touched the barrel and the defendant snatched the shotgun away from his intended grasp, thus discharging the weapon, then she would only be guilty of involuntary homicide or self defense.

The approach I used to determine what had been said was multi-pronged. I listened to the key passage some 140 times on various machines and did a phonetic analysis of the Cuban Spanish spoken in it. In this way, I could show what letters sounded differently because of this variety of Spanish, such as the weak intervocalic /d/ and the aspirated final /s/. Thus, I was able to reconstruct the key passage, searching for similar patterns throughout the recording.

This process resulted in the identification of three instances of the word, *seguro*, which all the transcribers/translators heard clearly. The only other instance in the recording when the word *dedo* was used is when the defendant says to the detective that she will point something out on a document with her finger. Interestingly enough, there seems to be as much uncertainty amongst the first three transcribers/translators regarding this instance of the word *dedo* as there was in the first. It is clear that without a verifiable methodology, the process of deciding what the key word actually was, and how to translate it, could have resulted in a gross miscarriage of justice. Because of the potential far-reaching consequences in any evidentiary translation, such a process must be entrusted to a properly credentialed professional. Ultimately, the jury rendered a verdict of involuntary homicide and the defendant, who had spent over eighteen months in jail, was set free (Rainof, 1991).

The two cases under scrutiny are separated by twenty years (1991 - 2011). Nevertheless, the same issues regarding the use of qualified interpreters and translators remain. As we know, translators and interpreters are highly trained professionals, and those who are certified have passed rigorous certification examinations. In response to those who claim that a non-certified amateur is the same as a certified professional, it is helpful to draw a parallel back to the legal profession: a non-member of the Bar is not the same as a member of the Bar any more than a non-certified translator and interpreter is the same as his/her certified counterpart. Similarly, there is no such thing as a "certified attorney" versus a "qualified attorney."

We have to expect there to be differences of opinion sometimes in tape transcripts--after all, we know how fluid language and meaning can be in different contexts, and how different ears can hear differently. But we well may ask: what will it take for the legal community as a whole to recognize that certification exams stand for something, and that non-certified personnel should not be entrusted with evidentiary material to translate?

References

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[Dr. Alexander Rainof holds a Ph.D. in Comparative Literature with specializations in Anglo-American, French, Italian, and Spanish. He also speaks Russian. He is certified by the Federal and California Courts and NAJIT. An internationally known scholar, he has published and lectured extensively in literature, linguistics, translation and interpretation. He is a Professor in the Romance, German and Russian Languages and Literatures Department at California State University, Long Beach (CSULB). He was the President of SSTI (The Society for the Study of Translation and Interpretation, and the Chair of the NAJIT (National Association of Judiciary Translators and Interpreters) Board of Directors.]

[The *Méndez* case was also discussed on NAJIT's blog on March 9, 2012, in an posting by John Estill, Chair of the Advocacy Committee, and reflects the committee's work. Go to <http://najit.org/blog>. -RWD, Ed.]

Killing People in Poland



Paul W. Merriam

The crimes that involve killing people differ in name among the various jurisdictions in the United States. For example, the word “murder” appears nowhere in the Montana Code Annotated 2011, but there is a crime called “deliberate homicide” defined in § 45-5-102 as follows:

(1) A person commits the offense of deliberate homicide if:

(a) the person purposely or knowingly causes the death of another human being; or

(b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any person legally accountable for the crime causes the death of another human being.

The lack of a crime called “murder” does not mean that Montanans murder each other with impunity. In Virginia, where there is no crime called “deliberate homicide,” this conduct (except for the arson) is covered in § 18.2-31 of the Code of Virginia where it is designated as “capital murder.” So Virginians do not deliberately kill each other with impunity either. This brief overview of differences in nomenclature reminds us that translators and interpreters working into English should always check the statutes in the relevant target language jurisdictions.

In Poland, for example, all crimes involving killing people are covered in Chapter XIX of the *Kodeks karny* [Criminal Code]. A brief description of the offenses in it that involve the death of people include the following, as translated by the author:

Article 148.

§ 1 – prohibits killing people.

§ 2 – provides for sentence enhancements for particular cruelty, hostage-taking, rape, robbery, particularly heinous motives, and use of firearms or explosives.

§ 3 – provides for sentence enhancements for killing multiple people or prior convictions for killing people

§ 4 – reduced penalty for killing someone under extreme excitement justified by the circumstances.

Article 149.

Prohibits pregnant women from aborting a fetus.

Article 150.

§ 1 - Prohibits killing a person at that person’s request or out of pity for that person.

§ 2 - Permits courts to be lenient.

Article 151.

Prohibits assisted suicide.

Article 152.

§ 1 – Prohibits terminating a woman’s pregnancy with the woman’s consent.

§ 2 – Prohibits assisting a woman in terminating her pregnancy or inducing her to do so.

§ 3 – Provides for sentence enhancement if the child was viable.

Article 153.

§ 1 – Prohibits forcible abortion.

§ 2 – Provides for sentence enhancement if the child was viable.

Article 154.

Provides for a separate penalty if an abortion results in the mother’s death.

Article 155.

Provides for a penalty for involuntarily causing someone's death.

Some of the words that show up in the Polish literature on the laws involving killing people provide accurate insights into the necessity of understanding the different terminology used. I reiterate, because the wording differs among the various states, that consideration be given to the names of the offenses in the states for the target audience. There is some flexibility because terms are understood across state boundaries. For example, Montanans know what "murder" is and know what the results of being murdered are, even if they do not have a statute explicitly prohibiting "murder."

Zabójstwo – This is generally understood to refer to Article 148 although this article does not explicitly define this word, preferring to start with "*Kto zabija człowieka...*" [Anyone who kills a person...]. Section 3 of this article, however, mentions prior convictions for *zabójstwo*. It is generally understood to be deliberate and may be caused by an action or a deliberate failure to act when such action or failure to act results in death. Possible translations: murder, homicide.

Morderstwo – This is another term not explicitly defined in the code. It is generally understood to refer to the circumstances indicated in Article 148, § 2 and § 3. In American statutes, the factors listed are sometimes called "special circumstances" and sometimes the word "aggravated" is used. Some states make a distinction between "murder" and "homicide." In Texas, for example, homicide is a general term encompassing murder and various other circumstances in which people are killed. Possible translations: murder, aggravated murder, murder with special circumstances.

Zabójstwo w afekcie – This is another term not explicitly defined in the code, but it is generally understood to mean the circumstances referred to in Article 148, § 4. This article refers to "*w stanie silnego wzburzenia usprawiedliwionego okolicznościami*" [in a state of extreme excitement justified by the circumstances]. This coincides with the "heat of passion," invoked as a defense, justifying a lesser charge. This lesser charge differs from what the charge would be had the killing been deliberate and differs in nomenclature. In Virginia, this would be first degree murder (rather than capital) murder. Possible translations: killing in the heat of passion, crime of passion [assuming the context makes it clear that someone died as a result], manslaughter, voluntary manslaughter, homicide under extreme emotional strain.

Zabójstwo typu uprzywilejowanego – This is not defined in the code either, but is generally understood to mean approximately the same thing as *zabójstwo w afekcie*.

Dzieciobójstwo – This is not defined explicitly in the code, but in the criminal justice system, it is generally used to refer to the termination of a pregnancy in the criminal justice system. The word is also used to refer to killing children that have already been born, although those cases in Poland are usually prosecuted under Article 148, the same one used for prosecuting people who kill adults. Abortion in the US has not been a criminal offense since *Roe v. Wade*, 410 U.S. 113 (1973), although aborting a viable fetus or giving a woman an abortion against her will can be prosecuted under various statutes. Possible translations: abortion [if done before birth], infanticide [if done after birth]

Zabójstwo eutanatyczne; eutenazja – Neither of these terms are explicitly defined in the code although they are generally understood to mean the same thing and concern the crime covered in Article 150. Usual translation: euthanasia.

Samobójstwo – This is suicide, which is not a criminal offense (because the perpetrator cannot be prosecuted). Article 151, which is generally understood to prohibit assisted suicide, is slightly elliptical, starting with "*Kto namową lub przez udzielenie pomocy doprowadza człowieka do targnięcia się na własne życie...*" [Anyone who by abetment or providing assistance leads a person to act violently against his own life...]."

Nieumyślnie spowodowanie śmierci - This is covered in Article 155 though not explicitly defined there. There are so many variables in the US criminal justice system involving culpability, standards of care, and intent that I don't recommend anything more explicit than something along the lines of "involuntarily causing death." When people involuntarily cause the death of other people in the US, they are often prosecuted under "involuntary manslaughter" statutes, although the nomenclatures differ among the states.

References

Code of Virginia 2012, § 18.2-31.

Kodeks karny, Dz. U., rok 1997, numer 88, poz. 553

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[Paul W. Merriam is a freelance translator, ATA-certified for translation from Russian to English. He is a 1980 graduate of the Basic Polish Course at the Defense Language Institute and spent 20 years in the US Army. His prior experience includes 10 years of experience working for a contractor with a U.S. Department of Justice contract. He can be reached at pmerriam@starpower.net.]

Message from the Chair

Dear colleagues,



I hope the New Year is off to a good start for all of you. It is amazing to me how quickly the calendar changes. It doesn't seem that long ago that we were wrapping up the conference in Long Beach, California and I was proudly embarking on my first year as your Chairman. These past few months have seen a tremendous amount of activity for our professions, both nationally and internationally. As I have written in past messages, NAJIT has been at the forefront of many of the issues and initiatives that will continue to define our professions for years to come.

The issues of collaboration, inclusion, coordination among associations, a shift toward greater professionalism and the need for “generalist” certification have dominated much of the debate on the national level. While the Board of Directors and I feel that it is important for NAJIT to play a prominent leadership role on these issues - and, in fact, we have and will continue to do so - it is just as crucial that we advocate for members and continue to strive to improve the working conditions and prestige of the practitioners. I am as proud of our work on this front as I am of the role we have played by both participating in and framing the national debate. In this installment I would like to highlight some of our efforts to positively impact our members in their daily work.

Our Bench and Bar committee continues to develop modular presentations to educate the bench and bar. The presentation for attorneys is complete, and the one for judges is well underway. Our newly created Public Relations committee has launched a NAJIT blog to help educate and disseminate information among the general public, stakeholders and practitioners. Our Advocacy committee has been active on various issues including support of our members in Texas who have opposed the watering down of the credentialing process in that state. Although we were not successful in blocking that change, we continue to speak out against it and stand ready to support our members in any way they see fit.

Also in Texas, we have provided an expert witness report, Pro Bono, in the case of John Doe vs. Harris County. The report was on behalf of the plaintiff who is suing the county for failure to provide an interpreter at no charge in a civil case. Representing the Board of Directors I offered recommendations to the American Civil Liberties Union in Lancaster, Pennsylvania in their effort to help create policy on the use of interpreters in law enforcement interrogations -emphasizing the perils of utilizing bilingual employees during those encounters. In South Carolina, we have supported the great work of some of our members who founded the South Carolina Association of Interpreters and Translators. We applaud their endeavors to improve the state of the profession through education, training and implementation of testing standards to improve the quality of court interpreting there.

In my home state of Tennessee, I have continued to serve on several committees of the Tennessee Access to Justice Commission as a NAJIT representative. In the past few months we have achieved changes to the Supreme Court rules governing interpreters that will make it more difficult to circumvent the process of appointing certified interpreters. The Access to Justice Commission has also launched the “Equal Justice for All” web site to better serve and facilitate access to justice in the courts for language minorities and the disabled. In one of the more problematic courts in Bradley County, Tennessee, I have worked with county leaders including the county clerk and the county attorney to root out some of the largest obstacles to access to justice for limited English proficient individuals. More work remains to be done on that front but the true challenges are limited to one court; even there, improvement has been made with the implementation of a Hispanic docket and the use of a certified interpreter on those days.

In March, I will participate in a panel at the Law Library of Congress. I will present on the difficulties involved in competent court interpreting from the language perspective and thus the need for training requirements to achieve competence. My goal there will be to shed light on the complexities of our professions and to raise the visibility and prestige of interpreters, in the hope that other stakeholders take notice and avail themselves of credentialed practitioners across all levels of government. In April, I will participate in a panel discussion at the Mid-America Regional Interpreter Education Center's Institute for Legal Interpreting conference in Westminster, Colorado. I hope to foster better collaboration with interpreters for the deaf and hard of hearing, as I feel we can each benefit from the experience and expertise exhibited by both ASL and spoken language interpreters.

Additionally, I continue to represent NAJIT in an initiative by the California Healthcare Interpreter Association to develop a market study specific to medical interpreters along the lines of the InterpretAmerica survey published last year. Many of our own members interpret in healthcare settings, and as such, a market study will be invaluable. In June, I will participate in a roundtable discussion on the topic of generalist certification hosted by InterpretAmerica at their third annual summit in Monterey, California. Many of our members also interpret in community settings that are outside of court, and a mechanism is needed to qualify and differentiate competent interpreters. A generalist certification exam would go a long way toward achieving that. The NAJIT Board and Certification Commission are exploring how NAJIT might take a lead role in that initiative.

I am also pleased to report that in February, the American Bar Association adopted the Standards for Language Access in Courts developed by the Standing Committee on Legal Aid and Indigent Defendants (SCLAID) through its Laying the Path Project. I had the honor of serving on the advisory committee and ensured that the interest of our members and our professions were represented. I am proud of the work our committee has done and I am thrilled that the Standards were adopted. I will continue to serve on that committee and I am very excited to embark on the next step of implementation. In this issue of *Proteus*, I have provided an update on where the project currently stands, some of the challenges that have been overcome and some that still lie ahead. Also in February, I was pleased to contribute an article on the common misconceptions attorneys have about court interpreters for *The Young Lawyer*, a magazine of the American Bar Association with a readership exceeding 100,000. The article will be reprinted in an upcoming edition of *Proteus*.

In December of 2011, NAJIT submitted an Amicus Curiae brief on behalf of the plaintiff in a case before the United States Supreme Court, *Kouichi Taniguchi vs. Kan Pacific Saipan, Ltd.* The Board of Directors saw this as an opportunity to educate the Supreme Court Justices, attorneys and the general public as to the differences between the professions of interpreting and translation. We enumerated these differences through our brief to address the common misconception that a qualified practitioner in one profession is necessarily qualified to practice in the other. The entire Board felt that such a brief aimed at protecting the integrity of both professions was in the best interest of all practitioners. The Supreme Court heard arguments on this case in February and our involvement certainly enhances the relevance and visibility of NAJIT. That greater prestige will allow us to advocate better in the future. No money was spent on this initiative as we procured legal services Pro Bono. The brief can be found here: <http://www.najit.org/documents/amicusbrief.pdf>

As a national association, NAJIT has an obligation to play prominent role in the national debates that affect our professions but we also have an obligation to focus on the real and substantive challenges that our members face everyday. I am proud of the work of our Board of Directors, our committee chairs, our members and our administrative staff. However, much more work needs to be done. Our organization continues to look for areas and issues where we can weigh in and make a difference. If you know of these, please bring them to our attention through the "Contact Us" feature at NAJIT.org. It is important to mention and remember that we are an association of volunteers. Many hands make light work. Please consider volunteering so that we may more effectively meet these real and pressing challenges. I am looking forward to seeing as many of you as possible at our conference in Boston. As always, I am proud to represent all of you and on behalf of the entire Board of Directors and our administrative staff, I thank you for your support.

Sincerely,
Rob

Rob Cruz
Chairman
Twitter: @najitchair

New for 2012: The First-Ever NAJIT Blog!

Our volunteer authors hail from many different backgrounds and vocational experiences, and have put together a few thoughts on why they answered the call to write for the blog. As you read about each, notice the similarities that unite their commitment and the differences that enrich their contributive potential. Visit the NAJIT blog site to read their full bios and the variety of entries already posted. Membership feedback is encouraged and ideas for future article topics can be forwarded to NAJIT Headquarters. Enjoy!

Bethany Korp-Edwards: I decided to join the NAJIT blogging team because I believe that the more interconnected individual interpreters become, the stronger our profession grows. We all benefit greatly from reading about others' experiences and learning from our colleagues who work in varied contexts across the country--and we who write the blog also benefit from hearing new and diverse perspectives. As a staff interpreter, who therefore has come to know one environment quite well, I especially look forward to coming to know other places and settings through my co-bloggers and the comments of the rest of the membership.

Gio Lester: I am a teacher by vocation. The blog allows me to share my experiences and what I have learned along my 30+ years in the translation and interpreting fields. One thing I am sure of is that there is a lot more learning to be done and I am not waiting for it to come my way. I am going out there searching and sharing, learning from the feedback of those I meet and from the experience of those who know more than I. It is a great experience and I am very excited about it.

Jennifer De La Cruz: Getting involved in the NAJIT blog is an opportunity to take practical experience and turn it into advice and ideas that can benefit colleagues both near and far. Although my experience as an educator tends to move me to focus on those who are just getting started, all of us can benefit from both the hindsight and the ponderings of a willing mentor. Looking forward, I think my task is to consider what a reader will find both relevant and interesting, which takes me through a process of analysis that benefits my professional attitudes and behavior. Writing for the NAJIT blog is sure to be a unique experience and I am grateful to be part of such a high-caliber group of authors.

Katharine Allen: InterpretAmerica's primary function is to "provide a national forum for the interpreting profession." The NAJIT blog is an ideal place to explore issues of consequence to interpreting. Our fellow bloggers are highly competent and thoughtful professionals, also dedicated to raising our profession through dialog, exchange and the sharing of critical information. Our goal is to contribute newsworthy and thought-provoking articles that provide tools for all who are working to improve our industry.

Kathleen Shelly: I decided to contribute to the NAJIT blog, not because I am well-versed in terminology research, or in theories about how the mind works when doing interpreting, but rather because I have learned a lot about the practical side of making a living by free-lance interpreting. In my fifteen years in the field, I have been able to develop methods for keeping records, getting and staying organized, looking professional, getting to assignments on time, in short, being as professional as I can. They are methods that work for me, and I am sharing some of them for people to use, modify or reject in seeking their own path to success. I have worked very hard to become a professional interpreter, but along the way, I have managed to invent ways to make things easier on myself. I've had a lot of fun, too, and I try to convey the amusing side of our little world.

Lissett Samaniego: I write for the NAJIT blog in order to engage experienced as well as newcomer language professionals in a kind of conversation about the contemporary issues and longstanding challenges we face in our day to day practice. I see the blog as an exciting new adventure to take part in and contribute to in my own, albeit small, way.

Maria Cristina de la Vega: I enjoy writing for the blog because it keeps me in touch with fellow bloggers and professionals in our field who are on the cutting-edge of the profession. In addition, it encourages me to keep up with current developments so that my observations are relevant and in line with what is happening elsewhere in our industry.

Nancy Festinger: I volunteered to be a NAJIT blogger because I was excited about the possibilities of the blog format. Blogging lends itself to a more informal type of writing about professional issues, experiences or ideas, without a need to have article-length material, it easily incorporates other media, and it is interactive by nature. I confess that I don't read many blogs, so by becoming one of the writers for NAJIT's blog, I sought to educate myself by immersion in the medium and at the same time keep my ears open to a continuing conversation. For many years I edited the print version of *Proteus*, which was very time-consuming and offered little time to generate articles of my own devising. *Proteus* went online at about the same time as I was ready to hand over the editing reins. Now that I am free of editing obligations, I welcome the chance to think aloud, as it were, and communicate directly with readers.

ABA Standards for Language Access in Courts Update

February saw a culmination of over a year of exhaustive work by dozens of stakeholders to produce arguably the most comprehensive document to date on language access in courts. The initiative originated in the Standing Committee on Legal Aid and Indigent Defense (SCLAID) of the American Bar Association. The project entitled "Laying the Path" was an ambitious one. Under the leadership of the Honorable Vanessa Ruiz and SCLAID Chair Bob Stein, and with the help of two dedicated project managers, I was among many who served on the advisory group. As some of you may recall, the Standards were to be voted on by the House of Delegates of the ABA in August of 2011. Shortly before the vote, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) each presented a resolution objecting to the adoption of the standards without engaging in further discussion. The principal objection was to a lack of concern for the fiscal ramifications on states in implementing the standards as written.

Although every effort was made to reach an acceptable solution to all sides at the August meeting, it became clear to the SCLAID leadership that the Standards would not pass. A decision was made to table the vote to allow sufficient time for all parties to dialogue. Through the hard work and dedication of Terry Brooks, Jill Dutton, Bob Juceam, Justice Jim Dugan, Laura Abel and SCLAID Chair Bob Stein, the six-month postponement indeed yielded a breakthrough. Both CCJ and COSCA submitted resolutions in support of the amended standards prior to the February meeting of the ABA House of Delegates. Both, along with National Center for State Courts (NCSC), expressed "wholehearted" support of the Standards as essential to providing "equal access to justice" to persons with limited English proficiency. Chief Judge Washington's remarks as CCJ President can be found at:

<http://www.ncsc.org/Information-and-Resources/Budget-Resource-Center/Economic-impact/ABA-Task-Force-Midyear-Address-Washington.aspx>

At that meeting the standards were officially adopted by the ABA and can be found here:

http://www.abanow.org/wordpress/wp-content/files_flutter/1326398698_31_1_1_9_resolution_summary.pdf

The amended standards changed in two substantive ways. First, language in Standard One was changed from "shall" to "should" to reflect the CCJ's and COSCA's fiscal concerns. Additionally, new language was added to the commentary to the effect that courts may attempt to recuperate costs for language access from "well resourced individuals."

The next step in the process is implementation. A part of that will involve defining the term "well resourced". The intention is to do this in such a way that it does not violate an individual's rights and to completely differentiate it from the indigency standard currently utilized by many jurisdictions. NCSC has announced a Summit on Language Access to be held October 1-3 in Houston, Texas with teams of representatives from all three branches of government from all states. Inclusion is being sought for representatives from the user and advocacy communities. While it is clear that much more work lies ahead, the adoption of the Standards is a great achievement and a milestone for our profession. I will continue to serve on the advisory committee and look forward to the work ahead. As we move towards implementation, distribution of the standards will be paramount. NAJIT will certainly play a prominent role in that as well. Please check the NAJIT website and Cybernews for further developments.

[Rob Cruz is Chairman of the NAJIT Board of Directors.]

FIT

NAJIT has been accepted as a member of the Fédération Internationale des Traducteurs / International Federation of Translators (FIT), an international grouping of associations of translators, interpreters and terminologists. Its congress is held every three years, and most recently took place in San Francisco last Fall. For more information about FIT, go to: <http://www.fit-ift.org>.

Scholarship Winner

NAJIT is pleased to announce that the Susan E. Castellanos Bilodeau Conference Scholarship for 2012 has been awarded to Alida Yath. This scholarship is awarded annually to an individual who has shown dedication to the profession and commitment to NAJIT, among other criteria. Congratulations, Alida!

In Memoriam

Jennifer Hammond

Ricardo Miguel Gonzalez, aged 45, passed away on Saturday, December 3, 2011 in Yuma, Arizona. He was born on March 4, 1966, in Ponce, Puerto Rico. Ricardo attended school at Academia Santa Maria in Ponce, Puerto Rico, and then went on to graduate as a naval officer from The Naval Academy in Annapolis, Maryland. He served as an officer for seven years, and fought during the Persian Gulf War on the U.S.S. Midway. He also studied at San Diego University where he received his certificate as an interpreter and translator. He worked as a Spanish Court Interpreter at the Superior Court of Arizona in Maricopa County, Phoenix, Arizona from 1997 to 2003 and was a Team Leader. In 2003 he accepted the position of interpreter at the Federal District Court in Yuma, Arizona. A non-smoker, his loss to lung cancer was a huge blow to his family, friends, co-workers and the interpreting profession. He attended many interpreter conferences and his last one was the 2011 NAJIT Annual Conference in Long Beach. He was held in very high regard by the judges and staff in Yuma and is very fondly remembered in Maricopa County. He was an extremely warm, caring, loyal friend and was very well known and loved for his amazing sense of humor and strength in adversity. If you would like to see pictures of him you can look at his Facebook profile, Ricardo M. Gonzalez. Ricardo is survived by his parents: Jesus and Juanita Gonzalez and sisters Maria J. and Lourdes.

Items of Interest

Terminology: The @ Sign

[I am not a techno-geek in any language, so the first time I was given an email address in Spanish over the phone, I spelled out "arroba". After the laughter died down on the other end of the line, I was told that it was a sign, not a word. Oh- the @ sign! Years later, in an idle moment, my curiosity renewed, I googled @ to see what the sign is called in other languages. This is what I found, courtesy of Webopedia. --RWD, Ed.]

While in the English language, @ is referred to as the "at sign," other countries have different names for the symbol that is now so commonly used in e-mail transmissions throughout the world. Many of these countries associate the symbol with either food or animal names.

- **Afrikaans** - In South Africa, it is called **aapstert**, meaning "monkey's tail"
- **Arabic** - The @ symbol does not appear on Arabic keyboards, only keyboards in both Arabic and English. The Arabic word for @ is **fi**, the Arabic translation of "at"
- **Bosnian, Croatian and Serbian** - In these countries, it is referred to as the "**Crazy I**"
- **Cantonese** - In Hong Kong it is generally referred to as "**the at sign**," just as in England and America
- **Catalan** - In Catalonia, it is called **arrova**, a unit of weight
- **Czech** - In the Czech Republic, it is called **zavinac**, meaning "rollmop," or "pickled herring"
- **Danish** - It is called **alfa-tegn**, meaning "alpha-sign" or **snabel-a**, meaning "elephant's trunk" or **grisehale**, meaning "pig's tail"
- **Dutch** - Since English is prominent in the Netherlands, the English "at" is commonly used. However, the Dutch also call it **apestaart**, meaning "monkey's tail," **apestaartje**, meaning "little monkey's tail" or **slingeraap**, meaning "swinging monkey"
- **French** - In France, it is called **arobase** the name of the symbol. It is also referred to as **un a commercial**, meaning "business a", **a enroule**, meaning "coiled a", and sometimes **escargot**, meaning "snail" or **petit escargot**, meaning "little snail"
- **German** - In Germany, it is called **Affenschwanz**, meaning "monkey's tail" or **Klammeraffe**, meaning "hanging monkey"
- **Greek** - In Greece, it is called **papaki**, meaning "little duck"
- **Hebrew** - It is **shablul** or **shablool**, meaning "snail" or a **shtrudl**, meaning "strudel"
- **Hungarian** - In Hungary, it is called a **kukac**, meaning "worm" or "maggot"
- **Italian** - In Italy it is called **chiocciola**, meaning "snail" and **a commerciale**, meaning "business a"
- **Japanese** - In Japan, it is called **atto maaku**, meaning "at mark"
- **Mandarin Chinese** - In Taiwan it is called **xiao lao-shu**, meaning "little mouse," **lao shu-hao**, meaning "mouse sign," **at-hao**, meaning "at sign" or **lao shu-hao**, meaning "mouse sign" [sic]
- **Norwegian** - In Norway, it is called either **grisehale**, meaning "pig's tail" or **kro/lalfa**, meaning "curly alpha." In academia, the English term "at" is widely used
- **Polish** - In Poland, it is called **malpa**, meaning "monkey." It is also called **kotek**, meaning "little cat" and **ucho s'wini**, meaning "pig's ear"
- **Portuguese** - In Portugal it is called **arroba**, a unit of weight
- **Romanian** - In Romania, it is called **la**, a direct translation of English "at"
- **Russian** - Russians officially call it a **kommercheskoe**, meaning "commercial a", but it is usually called **sobachka**, meaning "little dog"
- **Spanish** - Like in Portugal, in Spain it is called **arroba**, a unit of weight
- **Swedish** - The official term in Sweden is **snabel-a**, meaning "trunk-a," or "a with an elephant's trunk"
- **Thai** - There is no official word for it in Thai, but it is often called **ai tua yikyiu**, meaning "the wiggling worm-like character"
- **Turkish** - In Turkey, most e-mailers call it **kulak**, meaning "ear"

For the complete article, go to

<http://www.webopedia.com/DidYouKnow/Internet/2002/HistoryofAtSign.asp> (posted 06-24-2010)

For computer terminology, generally, go to: <http://www.webopedia.com>

Links

Why bilinguals are smarter

<http://www.nytimes.com/2012/03/18/opinion/sunday/the-benefits-of-bilingualism.html>

No Respect for Free Work

<http://www.forbes.com/sites/work-in-progress/2012/03/14/people-dont-respect-free-work-so-charge-them-for-it/>

Homer Simpson Had it Right

<http://traductor-financiero.blogspot.com/2012/03/another-fine-mess-applied-language.html>

Adventures of a Teenage Polyglot

<http://www.nytimes.com/2012/03/11/nyregion/a-teenage-master-of-languages-finds-online-fellowship.html>

Watch your Language!

<http://rendezvous.blogs.nytimes.com/2012/03/13/watch-your-language-and-in-china-they-do/>

Interpreters & Translators On-Air

<https://plus.google.com/109172813571934524948/posts/ThmzRNh8kjQ>

*Notable Quotables***SUCCESS**

To laugh often and much; to win the respect of intelligent people and affection of children; to earn the appreciation of honest critics and endure the betrayal of false friends; to appreciate beauty, to find the best in others; to leave the world a bit better, whether by a healthy child a garden patch or redeemed social condition; to know even one life has breathed easier because you have lived. This is to have succeeded.

-Ralph Waldo Emerson

CFI Announcement

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The 10th Annual CFI Continuing Education Conference

October 5-7, 2012 at the Millennium Biltmore in Los Angeles

Call for proposals due May 15, 2012

Details at www.calinterpreters.org

The California Federation of Interpreters is a professional association and labor union for court interpreters and translators.

The CFI conference offers 15 hours of seminars in 4 breakouts over 2.5 days, with breakfasts and lunches included for you to take full advantage of the weekend to network and enjoy yourself.

Book Review

Bilingual: Life and Reality

Reviewed by Julie A. Sellers



Grosjean, François. 2010.
Harvard University Press.
ISBN: 978-0-674-04887-4
276 pages.
\$26.95

Bilingualism has become a way of life for many in the 21st century. While the domains in which bilinguals may use their languages vary from personal and social to public and professional, speakers of multiple languages share certain characteristics. François Grosjean's *Bilingual: Life and Reality* explores these traits as well as common myths about bilingualism and bilinguals. A combination of research, anecdotes, and the personal experiences of the bilingual author and expert, this recent book provides clear and entertaining insights into what it means to be bilingual.

The text is composed of two main sections, bilingual adults and bilingual children. Each section is further divided into chapters by topics that range from reasons for bilingualism to different approaches to raising children to be bilingual. The author begins by considering possible definitions of bilinguals, noting that these range from mere language use to an insistence on proficiency in the language. For Grosjean, "[b]ilinguals are those who use two or more languages (or dialects) in their everyday lives" (p. 4), thus emphasizing language use over language proficiency. By this definition, the author estimates that a minimum of fifty percent of all people are bilingual (p. 13), and bilinguals likely outnumber monolinguals in today's world (p. 243).

Bilingualism results from a number of different factors, such as immigration, language contact, colonization, war and invasions, and trade and commerce. Ultimately, what leads a person to learn another language is the need to be able to use that language. The greater the need, the more incentive there will be to learn a language, and usually, the greater the level of proficiency eventually obtained. Inversely, if a need disappears or lessens, the process of language forgetting--the flip side to language acquisition--will begin.

Throughout the book, the author emphasizes what he calls the complementarity principle, that is, the fact that "[b]ilinguals usually acquire and use their language for different purposes, in different domains of life, with different people. Different aspects of life often require different languages" (p. 29). As a result, language use is domain specific, and bilinguals may not possess the necessary vocabulary or style in one language called for in a specific domain or setting. Grosjean shares a personal example of having taught statistics for a number of years in English, only to find that he had to learn the language in that domain to teach the subject in his native French (p. 36-7). It is for this reason--that language use is domain specific--that the notion that all bilinguals are natural interpreters or translators is purely a myth.

Bilinguals have two or more languages at their disposal, and they must deactivate the language(s) not used in a certain situation or domain. Sometimes, bilinguals find themselves in a setting where other participants know both languages they speak. Language choice, thus, rests upon a combination of possible factors, such as who participates, what the situation necessitates, content included, and the reason for the linguistic interaction. Some domains, such as mathematics, prayers, or counting, are dominated by one language almost exclusively.

Code-switching--inserting a word or phrase from one language into another--may occur when all participants understand both languages. Nevertheless, this is not the only reason or motive to code-switch. Because language is domain specific, a speaker may code-switch simply because there is a gap in his/her language in that particular domain. Likewise, some concepts or ideas are simply expressed more effectively in one language. In some cases, code-switching is "used as a communicative social strategy, to show speaker involvement, mark group identity, exclude someone, raise one's status... [or]... show expertise" (54-5).

Grosjean also considers the subject of bilinguals' personalities and how others view them as individuals. Historically, bilinguals may be seen as people with split political loyalties merely because they speak more than one language. Similarly, others may consider them schizophrenic due to the oft-perpetuated myth that bilinguals' personalities differ according to the language they speak, when in truth, a bilingual person is "an integrated whole who cannot easily be decomposed into two separate parts" (75). What transpires, then, is more of an attitudinal or behavioral shift than any sort of alter ego. Others' views of bilinguals are also influenced by the socioeconomic status of the bilingual: where as those of a higher status may be praised for their bilingualism, those of a lower status are often criticized.

Grosjean also considers the topic of biculturalism, noting that not all bilinguals are bicultural. Bicultural people are those who "take part, to varying degrees, in the life of two or more cultures...they adapt, at least in part, their attitudes, behavior, values and languages to their cultures...[and]...they combine and blend aspects of the cultures involved" (p. 109). Although bilinguals deactivate the language they are not using at a given time, biculturals cannot always completely deactivate different facets of their cultures. The author provides as an example the way those with deaf family members may maintain eye contact for longer periods of time with hearing individuals.

Grosjean dedicates a chapter to what he terms "special bilinguals," including world language teachers, interpreters and translators. The author reiterates the fact that not all bilinguals are interpreters and translators, given that the latter "must have a complete set of translation equivalents in the other language" (p. 148). Grosjean goes on to explain the complexities of interpreting, especially simultaneously, and notes that, in contrast to other bilinguals, interpreters are constantly working bilingually and do not deactivate either language.

The second section of the book, bilingual children, is less interesting to a general readership and more applicable to those interested in raising bilingual children. The author explores different approaches to raising bilingual children, such as simultaneous versus successive learning, and raising children within a significant minority language community versus in the absence of such. He revisits the underlying motivator of the need to speak a language in the context of raising bilingual children, and explains how language forgetting applies.

As a whole, François Grosjean's *Bilingual: Life and Reality* is an insightful and entertaining read both for bilinguals and monolinguals. The author supports his personal experiences as a bilingual person with others' anecdotes and a variety of research, presenting all topics in an engaging style. Although the second portion of the book is of more interest to those aiming to raise bilingual children, it still presents information useful to those of us working in the interpreting field.

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Online Media

Audio of SCOTUS Arguments in *Taniguchi* Case: http://www.supremecourt.gov/oral_arguments/argument_audio_detail.aspx?argument=10-1472

Video: Que Difícil Es Hablar El Español <http://letras.terra.com.br/juan-andres-nicolas-ospina/que-dificil-es-hablar-el-espaol/>; [Singers' Website](#).

The Last Laugh

The Interpreter Needs a Repetition

Hal Sillers

We interpret all, and we're not meek.
We say, "Your Honor, your voice is weak.
It sounds to us like you're speaking Greek.
Your words pour forth in a bright blue streak."
The judge leans back in a chair so sleek,
Behind a bench as dark as teak,
And somehow he can make it squeak
When reaching to the very peak
Of pronouncing sentence and a future bleak
For the accused that's going up the creek.
Yes, we interpret, and it takes great cheek,
To feel that one is not a freak
To do this job and attempt to eke
The meaning from the words they speak.
When we finish a few breaths we sneak
And then we think, "Man, that was Queek."*

*Poetic license.

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