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FOR PUBLICATION

**IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS**

Plaintiff

v.

PETER M. PETER

Defendant

) **Criminal Case No. 04-0302CR**
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)
) **ORDER DENYING COURT APPOINTED
INTERPRETER**
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BACKGROUND

Defendant, Peter M. Peter (“Defendant”) appeared before this Court on Monday, October 4, 2004, at 9:00 a.m. for a Preliminary Hearing pursuant to his arrest stemming from an incident at Defendant’s residence on September 22, 2004. Assistant Attorney General Rebecca Warfield appeared on behalf of the Commonwealth of the Northern Mariana Islands (“Government”). Doug Hartigg of the Office of the Public Defender appeared on Defendant’s behalf. At the Preliminary Hearing, Defendant, who is from Pohnpei, requested a court-appointed interpreter. The Court scheduled a hearing to determine the need for an interpreter for October 6, 2004, at 1:30 p.m. During the October 6, 2004, hearing, after asking Defendant a number of questions in English that required more than yes and no responses, the Court decided against the court appointing an interpreter. The Court now issues this supplemental Order to clarify the right to a court-appointed

1 interpreter.

2 DISCUSSION

3 Courtroom interpreters function in several contexts. An interpreter translating
4 communications between counsel and a defendant is referred to as a “party interpreter.” More
5 specifically, when the party receiving the services is a criminal prosecution defendant, the interpreter
6 is referred to as a “defense interpreter.” Often, the cost of a defense interpreter is born by the court.
7 As such, when determining whether a court-appointed interpreter is called for, “[t]he trial court must
8 balance the defendant’s rights to confrontation and effective assistance against the public’s interest
9 in the economical administration of criminal law.” *Valladares v. United States*, 871 F.2d 1564, 1566
10 (11th Cir. 1989).

11 Certainly, to require a defendant to undergo a criminal trial without a court-appointed
12 interpreter when the defendant is penniless and does not understand a single word of the proceedings
13 against him might well trigger constitutional concerns. See *United States v. Desist*, 384 F.2d 889,
14 902 (2d Cir. 1967); *United States ex rel. Negron v. New York*, 434 F.2d 386 (2d Cir. 1970).
15 However, while the constitutional and statutory right to counsel is absolute, the right to a court-
16 appointed interpreter, even a defense interpreter, is not. *Cervantes v. Cox*, 350 F.2d 855, 855 (10th
17 Cir. 1965). Neither the Due Process Clause of the Fifth Amendment, nor the Sixth Amendment’s
18 right to a fair trial, gives a defendant the independent, constitutional right to a court- appointed and
19 government-paid interpreter.

20 The United States Supreme Court determined that the defendant need not understand every
21 word spoken at trial, rather, the right to participate in one’s own defense merely requires that the
22 defendant be able to present his story and respond to conflicting stories. *United States ex rel*
23 *Negron*, 434 F.2d at 389 (requiring that a criminal defendant possess a “reasonable degree of rational
24 understanding”); *Massachusetts v. Turell*, 381 N.E.2d 1123, 1124 (Mass. App. Ct. 1978) (defendant
25 need not be fluent in English, only understand and comprehend English); *Valladares*, 871 F.2d at
26 1566 (defendant has no constitutional right to a word for word translation).

27 The trial court judge is the one who is able to directly question and observe the defendant,
28 thus the use of an interpreter is committed to the sound discretion of the court. *United States v.*

1 *Coronel-Quintana*, 752 F.2d 1284, 1291 (8th Cir. 1985); *United States v. Tapia*, 631 F.2d 1207,
2 1209 (5th Cir. 1980); *see also Turell*, 381 N.E.2d at 1124 (trial court afforded “wide discretion” in
3 determining the need for interpreter). The trial court judge need not accept as dispositive the
4 Defendant’s assertion that an interpreter is required. *Cervantes*, 350 F.2d at 855; *Valladares*, 871
5 F.2d at 1566. Rather, the need for an interpreter is made on a case by case basis, and the trial court
6 is only required to appoint an interpreter when it finds “that a non-primary English speaker’s skills
7 are so deficient as to ‘inhibit’ comprehension of the proceedings.” *Gonzalez v. United States*, 33
8 F.3d 1047, 1050 (9th Cir., 1994); *Cervantes*, 350 F.2d at 855.

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11 SO ORDERED this 15th day of October 2004.

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14 /s/
15 David A. Wiseman
16 Associate Judge
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