

**TENNESSEE SUPREME COURT RULE 41
COURT INTERPRETER GRIEVANCE COMMITTEE**

RONY ENAMORADO
RUBEN MORA
FREDY BLANCO PINEDO
SANTOS ELIBERTO ULLOA ORTIZ
HENRRY JOVANY BACA,
Complainants

vs.

HERNÀN SILVA-ZETINA,
Interpreter

DECISION OF INTERPRETER GRIEVANCE COMMITTEE

This cause came for decision after initiation of this action by the filing of a grievance against Mr. Hernàn Silva-Zetina (Interpreter) a certified Tennessee Supreme Court Rule 42 court interpreter, by Rony Enamorado, Ruben Mora, Fredy Blanco Pinedo, Santos Eliberto Ulloa Ortiz, and Henry Jovany Baca (“Complainants”) on July 1, 2019.

This grievance was heard on November 8, 2019, by a Grievance Committee (“Committee”) composed of three members appointed by the Director of the Administrative Office of the Courts, Deborah Taylor Tate, pursuant to Tennessee Supreme Court Rule 41. The Committee was comprised of duly appointed members Hon. Vicki Snyder, Cathy Clayton, Executive Director of the West Tennessee Legal Services, and Cristina Frasier, Tennessee certified Spanish interpreter. Present also at the hearing were the Complainants, Rony Enamorado, Ruben Mora, and the Interpreter, Hernàn Silva-Zetina.

The parties were sworn in by Judge Vicki Snyder and asked to provide testimony as to the allegations made in the complaints.

The Committee, after full review and discussion of the testimony presented and the record as a whole, hereby finds as follows:

1. The Interpreter, Hernàn Silva-Zetina, is bound by Tenn. Sup. Ct. Rule 41, in particular, Canon 3: Impartiality and Avoidance of Conflict of Interest – "Interpreters shall be impartial and unbiased and shall refrain from conduct that might give an appearance of bias." Canon 3 states that any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and that any situation in which the interpreter thinks his or her impartiality may be questioned or compromised is presumed to create an actual or apparent conflict of interest.

2. The Commentary to Canon 3 provides that, "During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their official functions." Further, "the interpreter should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times."

3. The Complainants stated in their written statements that the Interpreter told them that he was an immigration agent. They claim that the Interpreter said he could have one of them deported for having employees that do not have a legal status. The Complainants were in court to testify as witnesses and victims of a robbery and were not there for any type of immigration or legal status proceedings. These topics were not related to the underlying criminal case

4. During the hearing, the Interpreter affirmed that he remained in a conference room alone with the witnesses when the District Attorney left briefly to make copies. The interpreter stated he overheard the Complainants discussions and they were referencing deportation and immigration issues. He admitted that he did speak to the group about deportation, claiming he was warning them that they should testify truthfully and that giving false testimony could lead to deportation.

5. The Interpreter violated Canon 3 by conversing with the Complainants outside of the scope of the discharge of his professional duties. He further violated Canon 3 by not showing professional detachment and verbally showing his opinion of the conversation he claimed he overheard the Complainants in the

conference room and in the hallway outside the courtroom.

6. The Interpreter is bound by Tenn. Sup. Ct. Rule 41, Canon 4: Professional Demeanor – “Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.” The commentary to Canon 4 further states that, “Interpreters are encouraged to avoid personal or professional conduct that could discredit the court.”

7. The Complainants stated that the Interpreter treated them badly and that as a result of the Interpreter’s remarks, they were afraid to return to court.

8. The Interpreter violated Canon 4. The Interpreter’s conduct in speaking directly to the Complainants outside the scope of interpreting in the underlying assault and about issues unrelated to the underlying assault case were unprofessional and potentially interfered with an on-going criminal matter.

9. The Interpreter is bound by Tenn. Sup. Ct. Rule 41, Canon 5: Confidentiality – “Interpreters shall protect the confidentiality of all privileged and other confidential information.” The commentary to Canon 5 provides that the interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of his or her duties. Interpreters must understand and uphold the attorney-client privilege. It is equally important for the interpreter to be aware that when the attorney is not present, there is no attorney-client privilege and the interpreter may divulge any information gained. The interpreter must therefore avoid any such situation.

10. The commentary to Canon 5 further guides interpreters that if he or she becomes aware of information that suggests the threat of imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should “immediately disclose the information to an appropriate authority within the judicial system and seek advice in regard to the potential conflict in professional responsibility.”

11. The Complainants stated that the comments the Interpreter made directly to them that caused them to file the complaint occurred when they were alone with the interpreter and/or when the District Attorney was not present.

12. The Interpreter admitted in his written response and at the hearing that he remained in the conference room with the Complainants when the District Attorney left the room. He also admitted to sitting and standing with the

Complainants in the hallway outside the courtroom when the District Attorney was not present. Further, the Interpreter admitted that he listened to the Complainant's conversation during these instances.

13. The Interpreter claimed he stepped in after one of the Complainants told the others to exaggerate the facts of the assault to make sure that the man charged with the assault never saw the light of day. The Interpreter claimed in the hearing that he believed this Complainant was telling the others to not be truthful during their testimony. The Complainants all denied that they made any statements about exaggerating their testimony.

14. The Interpreter violated Canon 5 by not avoiding the situation where he could learn confidential information regarding the underlying assault case. He remained in the room with the Complainants when the District Attorney left and remained with them in the hallway outside the courtroom. The Interpreter did not adhere to the commentary to Canon 5. Had he thought that one or more of the Complainants were going to not be truthful under oath while giving testimony, he should have immediately notified the appropriate authority. The Interpreter did not notify anyone that he had been made aware that he thought the Complainants were going to commit perjury.

15. The Interpreter is bound by Tenn. Sup. Ct. Rule 41, Canon 7: Scope of Practice – "Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice." The commentary to Canon 7 states further that "at no time can an interpreter give advice."

16. The Interpreter stated in his written response to the complaint that he told one of the Complainants that people who are in the United States illegally can be deported. The Interpreter further stated he only told one the Complainants to stop trying to get the others to lie in court. Further, the Interpreter stated he told all of them they must be truthful in court.


17. The Interpreter violated Canon 7 by making these statements. The statements were his opinions and advice. He was not interpreting for the District Attorney or any other parties to the underlying assault case.

IT IS, **THEREFORE**, the unanimous decision of the Grievance Committee that Interpreter, Hernàn Silva-Zetina, violated Tenn. Sup. Ct. Rule 41, Canons 3, 4, 5 and 7 and should be and hereby is publicly admonished. This public admonishment shall be posted on the Administrative Office of the Court's website.

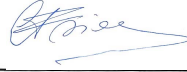
Further, due to the violations of multiple Canons regarding the ethics of foreign language interpreters in Tennessee courts, the Grievance Committee unanimously decided that Interpreter, Hernàn Silva-Zetina must complete 18 hours of continuing education courses specifically on interpreter ethics. Nine hours may be taken online. The courses must be approved in advance by the Court Interpreter Program Coordinator at the Administrative Office of the Courts. The courses are in addition to the required continuing education courses for all certificated Tennessee court interpreters.

The credentials of the Interpreter, Hernàn Silva-Zetina are suspended until the required additional continuing education courses on interpreter ethics are completed and proof of completion is submitted to the Court Interpreter Program Coordinator at the Administrative Office of the Courts.

Dated this 9th day of December, 2019.



Judge Vicki Snyder
Chair, Interpreter Grievance Committee



Cristina Frasier
Interpreter Grievance Committee Member



Cathy Clayton
Interpreter Grievance Committee Member

NOTICE OF RIGHT TO APPEAL

Pursuant to Tenn. Sup. Ct. Rule 41, providing for the Director of the Administrative Office of the Courts to adopt policies and procedures necessary to enforce the code, a party who wishes to obtain a review of the decision of the Grievance Committee may appeal to the Director of the Administrative Office of the Courts by filing a written notice of appeal with the AOC Director of Access to Justice within 30 days following the date of the Grievance Committee's decision.