DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JOSE MARCIAL TORRES,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2025-2554

[October 21, 2026]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; James Nutt, Judge; L.T. Case No. 502023CF002624AXXXMB.

Daniel Eisinger, Public Defender, and Summer Hill, Assistant Public Defender, West Palm Beach, for appellant.

James Uthmeier, Attorney General, Tallahassee, and Rachael Kaiman, Senior Assistant Attorney General, West Palm Beach, for appellee.

LEVINE, J.

Does the due process clause of the United States Constitution and the Florida Constitution require that a certified interpreter be used when the state admits videos of appellant's recorded interview that was conducted with an interpreter who was not certified? We find that there is no such requirement. We also find that the trial court did not abuse its discretion in allowing the admission of the videos because the trial court determined that there were sufficient safeguards to ensure the reliability of the translation. For both reasons, we affirm the admission of the videos without the use of a certified interpreter. As to the other issues raised by appellant, we affirm without further comment.[1]

[1] Appellant failed to preserve the issue concerning his right to a twelve-person jury, which we rejected in *Guzman v. State*, 350 So. 3d 72, 73 (Fla. 4th DCA 2022), *rev. denied*, No. SC2022-1597, 2023 WL 3830251 (Fla. June 6, 2023), *cert. denied*, 144 S. Ct. 2595 (U.S. May 28, 2024). *But see Kian v. State*, 421 So. 3d 439 (Fla. 4th DCA 2025), *cert. granted*, *Kian v. Florida*, No. 25-6623, 2026 WL 1718018 (U.S. June 15, 2026).

Appellant was convicted of one count of aggravated battery with a deadly weapon, that being a knife. The evidence presented at trial established that appellant hit the victim in the head with a beer bottle while outside a store. Appellant then drove home to retrieve a knife, returned to the store, and hit the victim again. The victim testified that he felt "something pinching really hard" in his stomach.

After his arrest, a sergeant interviewed appellant. A community service officer served as an interpreter. At trial, the community service officer testified, without objection, that during the recorded interview, appellant admitted to stabbing the victim with a knife. She further testified that she translated the interview "word for word"—"[f]or the most part"—and was sure appellant had admitted to the stabbing. She also testified that she is fluent in Spanish and that appellant understood and responded to all her questions.

Appellant took the stand and denied making a confession. In response, the state sought to introduce videos of appellant's recorded interview. Appellant objected arguing, in part, that the lack of a certified interpreter violated due process and that the translation was not accurate because the community service officer was not a certified interpreter. The trial court overruled appellant's objection and admitted the videos, stating:

> I listened to her testimony, and she already, I think, has laid a predicate for my comfort in her translation, which was, hey, we had a conversation. In other words, he was responding appropriately to my questions, . . . and I was hearing him back, and the follow-up was appropriate. So the interactions, in a sense, verify the translation.

Appellant was found guilty as charged in the criminal information. This appeal follows.

I. Due Process

Appellant first argues that the admission of the recorded interview without a certified interpreter violated his constitutional right to due process.[2] We disagree.

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[2] The United States Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV.

A claim of denial of due process is reviewed de novo. *Davis v. State*, 227 So. 3d 137, 139 (Fla. 4th DCA 2017). "As applied to a criminal trial, denial of due process is the failure to observe that fundamental fairness essential to the very concept of justice." *United States v. Silva-Arzeta*, 602 F.3d 1208, 1216 (10th Cir. 2010) (citation omitted).

We find *United States v. Silva-Arzeta* persuasive. There, the trial court permitted a detective to testify about incriminating statements the appellant made in Spanish during an interview. *Id.* at 1215-16. On appeal, the appellant argued that the detective was not properly certified as an interpreter. *Id.* at 1216. The court rejected this argument, finding that although "[d]ue process might require a witness to have a threshold capacity to understand Spanish before the witness is permitted to testify about a conversation in that language," there was no due process violation where the witness "had sufficient knowledge of Spanish to testify." *Id.* The court concluded that there was "no ground to reject the district court's determination" to allow the witness to testify about the conversation. *Id.*

The same reasoning applies here. The community service officer testified that she was fluent in Spanish and that appellant understood and responded to her questions. The trial court determined that the community service officer's testimony "laid a predicate for [the trial court's] comfort in her translation" and that the interactions between appellant and the community service officer served to "verify the translation." Like in *Silva-Arzeta*, the record supports the trial court's finding that the community service officer had sufficient knowledge of Spanish. Although use of a certified interpreter may constitute "best practice," "due process does not require so much." *Id.* *Silva-Arzeta* concluded it could not "hold that their use is constitutionally required." *Id.* at 1217. We agree.

Appellant relies on *Rivera v. State*, 182 So. 3d 861, 863 (Fla. 4th DCA 2016), and *Tehrani v. State*, 764 So. 2d 895, 898 (Fla. 5th DCA 2000). But neither case holds that due process requires a certified interpreter. Rather, both cases merely state that a defendant has a right to an interpreter in order to understand and be able to communicate with counsel during the court proceedings. That is not the circumstance presented here.

We note that other courts have also held that certified interpreters are not constitutionally required. *See Albarran v. State*, 96 So. 3d 131, 181

The Florida Constitution likewise provides that "[n]o person shall be deprived of life, liberty or property without due process of law." Art. I, § 9, Fla. Const.

(Ala. Crim. App. 2011) (recognizing that the Supreme Court has not held that the use of a certified interpreter is required by the Constitution); *State v. Pham*, 879 P.2d 321, 326 (Wash. Ct. App. 1994) (holding that the defendant had no constitutional right to a certified interpreter); *People v. Estrada*, 221 Cal. Rptr. 922, 924 (Ct. App. 1986) ("There is no right, however, to a certified interpreter.").

We decline appellant's invitation to find that a certified interpreter is required under due process because when defining the parameters of what is constitutionally required, we are not at liberty to expand the requirements of due process. As the United States Supreme Court has previously stated:

> Judges are not free, in defining "due process," to impose on law enforcement officials their "personal and private notions" of fairness and to "disregard the limits that bind judges in their judicial function." They are to determine only whether the action complained of violates those "fundamental conceptions of justice which lie at the base of our civil and political institutions . . . ."

Dowling v. United States, 493 U.S. 342, 353 (1990) (citation modified).

Thus, we decline to impose an interpreter certification requirement that due process does not require.

II. Admission of Recorded Interview Without a Certified Interpreter

Appellant further argues that the trial court abused its discretion in admitting the videos of the recorded interview because the community service officer who served as the interpreter during the interview was not certified.[3] We disagree.

"A court's decision to admit testimony translating evidence from Spanish to English is reviewed for abuse of discretion." *Mendez-Martinez v. State*, 232 So. 3d 5, 7 (Fla. 4th DCA 2017). However, "the court's

[3] During the state's case-in-chief, the community service officer testified that she translated appellant's statements during the interview after he was advised of his *Miranda* rights. Appellant did not object to this testimony and, as such, may have waived any objection to the admission of those same statements contained in the videos. *See Allah v. State*, 471 So. 2d 121, 122 (Fla. 3d DCA 1985) ("If evidence theretofore has been admitted without objection, a subsequent objection to admission of evidence of the same import is waived.") (citation omitted).

discretion is limited by the rules of evidence and the applicable case law." *Horwitz v. State*, 189 So. 3d 800, 802 (Fla. 4th DCA 2015).

This court has approved the use of an uncertified interpreter when procedural safeguards allow the accuracy of the interpretation to be tested and the interpreter's impartiality or bias to be assessed. *Fernandez v. State*, 21 So. 3d 155, 156-57 (Fla. 4th DCA 2009). In *Fernandez*, the state used an interpreter, who was not certified, to translate recorded Spanish conversations into English. *Id.* at 155, 157. Although officers provided suggested corrections to the transcripts, the interpreter testified that she would not adopt a correction unless she could hear the purported language herself. *Id.* at 156. The interpreter was subject to cross-examination regarding the accuracy of her translations. *Id.* at 157. We approved these procedural safeguards. *Id. Cf. Mendez-Martinez*, 232 So. 3d at 8 (finding that adequate procedural safeguards were not employed where "the translator was the person responsible for the investigation," the translator did not provide a translation before trial, and the translator "translate[d] the video of her interview with the Defendant while on the witness stand").

Here, the trial court employed safeguards similar to those approved in *Fernandez*. The community service officer had no investigative role. Rather, she served only as the interpreter during appellant's interview. She testified that she is fluent in Spanish, that appellant understood and responded to all her questions, and that she was confident she had accurately translated appellant's statements. The interview was recorded and available to defense counsel before trial, allowing counsel an opportunity to review and challenge the accuracy of the translation. Nothing in the record indicated that she was biased or had any interest in the outcome of the case. Unlike the translator in *Mendez-Martinez*, the community service officer was not responsible for the investigation and did not translate the recording for the first time while testifying at trial. The trial court, acting as a gatekeeper, determined that these circumstances provided a sufficient basis to assess the accuracy of her translation. Thus, we find no abuse of discretion in admitting the videos of the recorded interview.[4]

[4] Appellant's remaining arguments relating to this issue are without merit. Appellant argues that the interpreter was not sworn as required by section 90.606, Florida Statutes. However, section 90.606 governs interpreters serving in a judicial action or proceeding. The statute does not prescribe the qualifications of an interpreter assisting during a pretrial interview with law enforcement. Appellant also argues that the state was required to provide a certified transcript of the videos before they could be admitted into evidence, but

In summary, the admission of the videos did not violate due process or the rules governing the admission of translated evidence. As such, we affirm.

Affirmed.

KLINGENSMITH and LOTT, JJ., concur.

* * *

Not final until disposition of timely-filed motion for rehearing.

cites no governing authority requiring a certified transcript. Thus, we find this argument to be unpersuasive. *See Polyglycoat Corp. v. Hirsch Distribs., Inc.*, 442 So. 2d 958, 960 (Fla. 4th DCA 1983).