

From: Potts, Brian
Sent: Friday, July 17, 2026 6:28 PM
To: RulesCommittee Secretary
Cc: Potts, Brian
Subject: article proposing amendments to Federal Rule of Evidence 604

Dear Advisory Committee on Evidence Rules,

Thank you for everything you do!

Please allow me to share with you a link to *The Federal Rules of Evidence: Exploring and Reimagining Evidence Law Through Music, and Proposing Amendments to Rule 604*, 31 SUFFOLK JOURNAL OF TRIAL AND APPELLATE ADVOCACY 143 (2026):

<https://dc.suffolk.edu/jtaa-suffolk/vol31/iss2/5/>

A proposal for amendments to Rule 604 is on pages 162 to 169:

Here is an excerpt from the article, minus the footnotes:

An official in-trial interpreter is not a witness. The interpreter has no personal knowledge of the case's facts, so she does not satisfy Rule 602 (Need for Personal Knowledge). Indeed, it could be dangerous to allow someone with personal knowledge of the facts to serve as the official interpreter because this person's independent knowledge of the facts could cloud a pure interpretation of the sworn witness's testimony.

So the interpreter need not swear to testify truthfully, because the interpreter is not testifying at all, and has no personal knowledge about the facts. But Rule 604 requires the interpreter to swear or affirm "to make a true translation":

Rule 604. Interpreter

An interpreter must be qualified and must give an oath or affirmation to make a true translation.

Isn't Rule 604 strange? It fails to distinguish between interpreters and translators. Interpreters make oral renderings of spoken words. Translators make written versions of texts. An interpreter *qua* interpreter does not translate. But Rule 604 botches this distinction. Normally, we'd let that slide. But Rule 604 is about words and their true meanings. And Rule 604 insists on "true" renderings of a witness's words.

Therefore, I suggest the Advisory Committee propose and Congress approve of this modest change to Rule 604: replace "to make a true translation" with "to make a true interpretation."

For how can Rule 604 expect an interpreter to make a true interpretation when Rule 604 botches the reiteration of the salient word? And how can Rule 604 expect an interpreter to make a true

translation when the interpreter might lack qualifications for translations and almost certainly lacks a text to translate? By bungling the English language, the current version of Rule 604 forces an interpreter to promise to do the impossible, to swear an oath “To dream the impossible dream ... To reach the unreachable star.”

Even with my modest change, is compliance with Rule 604 still impossible? Does Rule 604 still send an interpreter off on a quixotic quest, in pursuit of an impossible dream?

Is “a true translation” or “a true interpretation” ever possible? Surely a true interpretation of a single word or phrase is often possible. But a true interpretation of a witness’s entire testimony? If a true translation is possible, then why are there so many translations of *Don Quixote* into English?

At best, the phrases “true translation” and “true interpretation” are ambiguous. “True” as in transliteration? Or “true” as in matching the essential essence?

For a law to be valid, compliance with it must be possible. Therefore, I also make a bold proposition: amend Rule 604 to read: “An interpreter must be qualified and must give an oath or affirmation to render a true interpretation to a reasonable degree of professional skill and accuracy.”

Thus, Rule 604 might avoid entrapping an interpreter into violating her oath with nearly every breath. Indeed, sometimes even a single word presents problems for an interpreter.

Consider “ahora.” Some Spanish speakers mean by this word, and understand this word to mean, something like “right now.” But other Spanish speakers say and hear this word as meaning something like “later” or “a little later.”

Thank you for your consideration.

All the best,
Brian

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