

Court Rules That Defendants With Limited English Proficiency Have A Constitutional Right To Court Interpreters

ACLU Filed Friend-Of-The-Court Brief In Case Before Georgia Supreme Court

FOR IMMEDIATE RELEASE

November 22, 2010

CONTACT:

Rachel Myers, ACLU, (212) 549-2689 or 2666; media@aclu.org

Debbie Seagraves, ACLU of Georgia, (770) 303-8111; info@acluga.org

Araceli Martínez-Olguín, LAS-ELC, (415) 864-8848; amartinez-olguin@las-elc.org

ATLANTA – The Supreme Court of Georgia ruled today that defendants with limited English proficiency (LEP) have a constitutional right to court interpreters in criminal trials. The ruling came in a case in which the American Civil Liberties Union, the ACLU of Georgia and Legal Aid Society - Employment Law Center (LAS-ELC) filed a friend-of-the-court brief asserting that denying LEP defendants interpreters violates the U.S. Constitution and civil rights laws.

"The court acknowledged that we don't have two systems of justice in this country – one for English-speakers and another for everyone else," said Azadeh Shahshahani, Director of the National Security/Immigrants' Rights Project at the ACLU of Georgia. "The constitutional guarantee of due process applies to everyone in this country, not just fluent English-speakers."

The ACLU and LAS-ELC submitted their brief on behalf of Annie Ling, a Mandarin Chinese-speaker who was sentenced to 10 years in prison and five years probation after a trial without any interpreter to assist her. Because of her limited English, Ling did not understand that she had the option to plead guilty rather than going to trial and facing a much longer sentence. At her trial, she could not understand the testimony for or against her. Her own trial attorney admitted that because of Ling's limited English skills, he could not properly communicate with her without an interpreter. However, the attorney decided not to ask the court for an interpreter because he felt it would make the trial "take a lot longer" and make the jury "impatient."

Ling's conviction was appealed to the Georgia Supreme Court, which today vacated the ruling upholding her conviction and sent her case back to the Georgia trial court.

"In America, state justice systems are required to ensure that all people, regardless of their primary language, have equal access to a fair trial and that includes the right to an interpreter and competent legal counsel," said Araceli Martínez-Olguín, an attorney with LAS-ELC. "A person's guilt or innocence cannot be fairly determined at a trial that is incomprehensible to the defendant."

The ACLU's and LAS-ELC's brief argued that denying LEP individuals interpreters during criminal trials violates the U.S. Constitution's guarantee of due process under the Fifth and Fourteenth Amendments, as well as the Sixth Amendment rights of criminal defendants to confront witnesses, be present at their own trial and receive effective assistance of counsel. In addition, Title VI of the federal Civil Rights Act of 1964 requires the state of Georgia to provide competent interpretation services to all LEP individuals who come into contact with its court system. The court's opinion agreed with the groups' brief that the right to an interpreter is guaranteed by the Sixth Amendment and the due process clause of the Fourteenth Amendment. The Georgia Supreme Court also instructed all Georgia state courts to practice "vigilance in protecting the

rights of non-English-speakers" and to provide "meaningful access" to LEP individuals in order to comply with Title VI.

Attorneys on the case, *Ling v. Georgia*, are Jennifer Chang Newell and David Wakukawa (a volunteer attorney) of the ACLU Immigrants' Rights Project, Shahshahani and Chara Fisher Jackson of the ACLU of Georgia and Martínez-Olguín of the Legal Aid Society - Employment Law Center.

The ACLU's brief can be found online at: www.aclu.org/immigrants-rights/ling-v-state-georgia-amicus-brief

The court's decision can be found at: www.aclu.org/immigrants-rights/ling-v-state-georgia-decision