

OPEN NINTH:

CONVERSATIONS BEYOND THE COURTROOM

INTERPRETERS AND THE LANGUAGE BARRIER

EXPANDING ACCESS TO THE COURTS

EPISODE 114

NOVEMBER 23, 2020

HOSTED BY: DONALD A. MYERS, JR.

(Music)

NARRATOR: Welcome to another episode of “Open Ninth: Conversations Beyond the Courtroom” in the Ninth Judicial Circuit Court of Florida.

And now here’s your host, Chief Judge Don Myers.

CHIEF JUDGE MYERS: Hello, and welcome to Open Ninth. Joining me today is my friend and my colleague, Ninth Circuit Judge Luis Calderon. Luis received his Bachelor of Science degree in finance at the University of Florida, Warrington College of Business and he went on to the Georgetown University for his Juris Doctor. In 2016, he was elected to the circuit bench and he currently serves in Orange County in a criminal felony division. He also serves as our circuit’s interpreter judge. Thanks for joining me, Judge Calderon. It’s great to have you here.

JUDGE CALDERON: Happy to be here.

CHIEF JUDGE MYERS: Well, I’m excited to have the chance to have some of this conversation because we’re going to touch on some things that maybe some of our listeners aren’t aware of and the work that many of our judges do above and beyond just sitting on the bench and deciding cases. And so I’m excited to be able to talk with you about that. But let’s go back just a little bit and introduce our audience to you. Tell us a little bit about your background, where you’re from. I hear you’ve got an interesting family story.

JUDGE CALDERON: Right.

CHIEF JUDGE MYERS: Yeah.

JUDGE CALDERON: Well, actually I was born in Panama. When my parents – when my mother was pregnant with me, my parents lived in Nicaragua. My mother is from Panama.

My father is from Nicaragua. They're both doctors. They met in medical school in Brazil and shortly after, you know, they graduated, practiced for a few years. My father wanted to go back to his homeland so we were there, but it was around the time of the communist revolution in Nicaragua when the Sandinistas had kind of taken control of the country. So it was through some kind of horrific events that my father realized it was time to go, that it wasn't safe. My mother was about five to six months pregnant with me. When we finally left she was about seven months pregnant and we went to Panama to kind of seek refuge there, but my parents always had this dream about coming to America. And so under NACARA, we had the opportunity to emigrate here to the United States and we moved to a small town in South Carolina. It's a lot bigger now, but it's Greenville, in upstate South Carolina. We lived there until I was about five and then we moved to Miami, so that's a big – that was a big – I mean, you talk about culture shock, one, going from you know Panama or Central America to Greenville, South Carolina, and then another culture shock to go from Greenville to Miami. So but yeah, I grew up in Miami. I consider Miami more of my hometown. I still have a lot of family in South Carolina and so I have a lot of great memories from South Carolina but Miami is my hometown. I graduated high school there and then went on to the University of Florida.

CHIEF JUDGE MYERS: That's great. So having a background like that, and this isn't – for my own personal interest, I guess, did that experience influence your parents in the way that you were raised or in experiences or things that you all did or didn't do once you emigrated to the United States?

JUDGE CALDERON: Well, it definitely shaped our experience because number one, you know, the instability teaches you what things have some sense of permanence and for my parents that was education because no matter what the instability was in Nicaragua or what the

situation was in Panama, they were both medical doctors. They still knew their craft. The question was learning the language so coming here and learning English to be able to be proficient enough to practice medicine in the United States, I mean these are people who are highly educated, very successful, and basically had to start over. I mean, when we came here we had, you know, just a few pieces of luggage. That's all we came with. We lived with a relative until my parents were able to get their PA license so that they could do that while they earned their full license to practice medicine. But I saw them struggle. I saw them you know really make sacrifices for us because they really believed that you know in the U.S. that having that education, having that opportunity was better than anywhere else. So it does shape you because you learn that nothing is given you. You don't have connections. Everything that you have is earned and what you earn, that degree, that education can't be taken away from you. So you know, yeah, it definitely shapes your experience. It teaches you what's important. But you know it's just that general emigrant attitude of hard work and you know dedication will pay off.

CHIEF JUDGE MEYRS: And do you think even today you carry some of that with you?

JUDGE CALDERON: Absolutely. I mean, you know, I would say my parents' accomplishments and their sacrifices sometimes make me embarrassed at how little sometimes I feel like I've accomplished, but, you know, you just learn that their experience is their experience, and you try to do the best you can to – for my kids, you know for my family to instill that same type of work ethic and just that commitment to – hopefully to academics. I mean, they're very small right now but I'm still the one who just kind of pushes, you know, reading and all those things. It's just an important thing to me.

CHIEF JUDGE MYERS: Well, you have a tremendous educational background, attending really two very fine quality institutions, the University of Florida and there at Georgetown. Do – do you see that as an outflow I guess of that experience?

JUDGE CALDERON: Yeah, I mean, the idea was that if you're put into a scenario and you can excel, you just keep going so, you know, whether that was in elementary school, middle school, high school, there's always this desire to be number one academically. So that meant performing well on tests, performing well on the SAT to get into a good school, performing well at school to get into a good law school. Performing well at law school to get into a good firm. You know, it's just that constant desire to reach for the next branch, that next higher branch and you know I think that that was just something that I was taught was like never rest on your laurels. There's always something you can do. There's always something that you can aspire to and there's always room for progress.

CHIEF JUDGE MYERS: Well, before you came in, I was speaking with our producers and was telling them, you may be one of the smartest people I know. No, you laugh but I think it's true and I think a lot of your colleagues would say the same thing. You're very well respected for your intellect but also for your humanity. I mean, you're a great relational person. You don't carry an excess pride in that education piece but I think it's kind of cool that it reflects so much of you, your family's history and the drive I think that comes out of that experience. So you've got two parents who were physicians. For you why the law?

JUDGE CALDERON: I'm like the black sheep. You know, but it was just something that was, for me, it was always my own. You know, one of the things that I remember and I think, you know, when you're a kid, there's little experiences that just – they stick with you and for me I remember being really – I mean, this is still when we lived in South Carolina. But my

mom would work the morning shift. My dad would work the night shift so in the morning, he's the one – my dad was the one who would take me to school. And every morning we would watch Perry Mason and he – my dad was still, you know, learning English. And so, you know, he would ask me what certain things meant. And it just was a bonding thing for us because he loved the show. He – I mean this is the original black and white version. So he had seen the episodes in Spanish, you know, a few years back, but now he's seeing them with me on the reruns and it just kind of – that's what planted the seed. There's a lot of other experiences as I was growing up that kind of shaped it. And when I went to college, I was kind of getting away from the law and I took a class, an ethics class. It was kind of – it was legal ethics but it really was more about philosophy and it just kind of reignited that passion for the law. And it just, you know, my idea was I was going to go work finance. You know, I had some job offers, which were a blessing that I didn't take them because one of them was a job at Enron and that wouldn't have played out too well. But this class just – it just reminded me that, you know, because finance is so math, that this just allowed me to just think and write and express myself, and kind of give some, you know, just critical thinking about the things that I was reading and I really enjoyed that.

CHIEF JUDGE MYERS: That's cool. So I will forever recall taking the Florida Bar examination. I'm sure you will as well, as most lawyers. One of the things I remember the most is the conversation that I engaged in with my wife, which was to talk about the bar and wanting to only take it once. And for her to decide where she'd like to live for the rest of her life because that's the jurisdiction that I intended to sit for the bar examination. But you don't just have a license here in Florida. You've passed other bars too. Tell us about that.

JUDGE CALDERON: So you know, when I graduated from law school, I took a job in D.C. and I worked for Williams and Connolly up there. And they wanted us to have a, I guess because it's one of the tougher jurisdictions to get into, there's a lot more reciprocity with other states if it came down to that. But they preferred that you took the New York bar exam. So you know, obviously you know you do what your job requires and I took the New York bar exam and I passed and they say it's one of the more difficult ones in the country. And then I started to kind of say, you know, D.C. is great. And then, you know, I weaved into the D.C. bar so it's not like I had to take a whole other exam. My scores were good and, you know, I basically just had to you know do an extended application, give them my certificate of good standing from New York and weaved into D.C. But Florida has no reciprocity with anybody so if you want to live in Florida, you got to take the Florida Bar. There's no practitioner's exam. There's nothing. There is only the Florida Bar exam. When I got the idea that I might want to come back to Florida, I wasn't sure where I wanted to go, but I knew that I missed being, you know, at least in the state, close to family. You know, my brother had just had his daughter and I wanted to be closer to them. I didn't want to be, you know, the uncle that you see once or twice a year. You know, I wanted to be involved and that was more the motivation. And I was just kind of over D.C. too, so it was just the right combination of factors. But I literally maybe studied about six weeks. But I had already taken the MBE so I always tell people, like, you know, because I have friends who are like, oh, I'm thinking about taking – I was like, I was still within that two year range of having taken the bar exam so it was relatively fresh in my mind, the MBE portion. I had to learn all the Florida stuff, but I figured if I gave myself some time, what I didn't factor in was that I had to move from D.C. to Florida. I was still working right up until the beginning of February, and so it really only gave me four weeks to study. But fortunately you know I passed and it was

fine, but yeah, I thought about taking California as well. And there was a job that I was looking at out there, but again, I just – it just had to be all the right factors and family was here and so that was ultimately what swayed me.

CHIEF JUDGE MYERS: And your practice when you came to Florida, was it primarily – I mean, you're known in the community for your criminal defense practice. Is that what you picked up when you came here to Florida?

JUDGE CALDERON: So the whole reason I moved to Florida was because I wanted to work for the Public Defender's Office. I didn't know what jurisdiction that that would take me to, so when I saw it – and I -- I mean, it was a total fluke. Judge Harris who was a supervisor at the Public Defender's Office back then was at a job fair. And I just happened to be – I knew it was there, called the Equal Justice Works Job Fair or Equal Justice Foundation Job Fair, and I just – it was – it was at the Hilton near where I lived. And I just thought, you know what, I'll just swing by on my way home from work. I'll just check it out, see if there's anything there because I already had this want to kind of do more of public service type work. So I went in there and she was the contact person and I had a great exchange with her. And I just thought, you know, this is an interesting, you know, opportunity because my brother lives in Orlando. So I was here visiting for Christmas and I went and I called them and said, hey, I'd like to interview. And I mean I – no sooner than I get off the elevator they offered me the job and then they said, now, you know, I'm going to take – the Public Defender, Bob Wesley took me around the office and he said, all right, now, here's your interview. And I was like, but you just offered me the job, I don't understand why I like got to sit for an interview. So I guess he wasn't necessarily on all fours with his staff because I guess they didn't know he was going to do that, but it was a great interview. I really enjoyed the interaction and the one thing that they promised me was that

I would have the opportunity to have my clients. These would be my cases and I liked that because I wanted to have the interaction to really see what courtroom practice was with real people that you're helping. You know, I got to do a little bit of that in law school through our clinics but that was one thing that I just really enjoyed was them looking to me for help and me being able to help them.

CHIEF JUDGE MYERS: You grew up in Florida at least largely inside the Public Defender's Office but then moved into private practice doing some criminal defense truly with your own clients –

JUDGE CALDERON: Yep.

CHIEF JUDGE MYERS: -- own real people, own real cases.

JUDGE CALDERON: Yeah, and it was a great experience. I mean, it's great to help people. It's just very humbling when people are paying you for your advice. It's not that it makes the responsibility bigger, but it's very rewarding to know that people respect you enough that not only are they taking your advice, but they're paying you for it. And just having that reputation a lot of my clients were people who did not speak English, people who, you know, had a language barrier. Maybe they spoke a little bit but I had a lot of clients who were looking for a you know, Hispanic lawyer to represent them because they felt that there was certain cultural things that maybe that attorney would be able to understand. And you know, it just gave me a real sense of being able to help people who find themselves in difficult situations. Maybe other people don't understand them, can't speak to them in their native language. And so that was a huge part of having my own practice because I get to pick my clients. None of them are assigned to me.

CHIEF JUDGE MYERS: Yeah, and for the benefit of our listeners, you were elected to the bench in 2016?

JUDGE CALDERON: Right, and I was commissioned in 2017. So I started in January.

CHIEF JUDGE MYERS: All right. So January of '17 and as fate has it, when you move in to a role like this you don't get the privilege of typically going to a division where you have experience and practice, and worked in that type of work. So you immediately went out to Osceola County and you were handling domestic, domestic violence, maybe a little bit of juvenile delinquency out there, is that right?

JUDGE CALDERON: Right. Unified Family Court.

CHIEF JUDGE MYERS: Okay. Yeah, and then come back to Orange County, you do two years of a civil division.

JUDGE CALDERON: Almost two years.

CHIEF JUDGE MYERS: Okay.

JUDGE CALDERON: Almost.

CHIEF JUDGE MYERS: And now things have turned and you find yourself a little bit back home in the sense that you're sitting on the felony bench with us. And you drew out I think what we really want to spend some time talking about today. And this is the idea that there are many people in our community for whom English is not their first language. And frequently they have those – there will be individuals who are in that circumstance with language who also have interactions with our court system. We know in Orange County 35 percent of the homes English is not the first spoken language. In Osceola County, that number is over 50 percent of

the homes. And so for us to be able to ensure that defendants are able to communicate, to understand the proceedings to actively participate in those proceedings, we have to provide some interpreter resources for them. And because for you it's not enough to have gone to college, you had to go to law school. And it wasn't enough to become a lawyer, but then you had to become a judge. Wasn't enough to become a judge, you now are our interpreter judge, is that right?

JUDGE CALDERON: That's correct.

CHIEF JUDGE MYERS: Okay. So tell us a little about, maybe just give us an overview of the interpreting services here in the Ninth Circuit and then we'll kind of flesh that out a little bit.

JUDGE CALDERON: Well, you know, it's a very extensive operation that we have here in the Ninth Circuit and it's very impressive. You don't realize the depth of it until you're actually involved. The technology that they provide, so I'll just talk a little bit about what's called the virtual real-time interpreting, VRI. And it is just really impressive. They can remote into any courtroom so they don't have to physically be in the courtroom. And again, this has been in place for several years. This has been in place I believe since 2016, if not before that.

CHIEF JUDGE MYERS: Yeah, we in the 9th have done remote interpreting now for a long time. And the idea of remote interpreting isn't new or novel. It began really through telephone connections where an interpreter might not be present in the courthouse, but might be at some remote site calling in by telephone. And doing the interpreting over a telephone line. We've sort of taken that to the next step, well, really beyond that next step to several levels higher in terms of function and it's so interesting because right now that technology has been the backbone for us to conduct so much of our video conferencing during the pandemic. But our

virtual remote interpreting is so sophisticated and so well done. And we're going to talk a little bit more about that. Basic interpreting services. We have a number of interpreters on staff. And if a defendant in a due process proceeding, like a criminal court proceeding needs the benefit of an interpreter, in the past what was done was to typically bring that interpreter to the courtroom and they would sit there together with the individual who needed the interpretation and conduct live interpretation for the proceeding, interpreting everything that was said for the benefit of the defendant to hear and then interpreting everything the defendant said for the benefit of everyone else to hear. But as you said, we've made some progress. We have staff interpreters. We have contract interpreters. Tell us about that.

JUDGE CALDERON: So we have our staff interpreters who are kind of our in-house interpreters. Every morning I swear them in so they can go about their business and jump right into whatever hearing or plea needs to be translated. We also have contract workers. So there's what's referred to as languages of lesser diffusion which so our staff mainly consists of Spanish interpreting. Our contract workers will do Creole. They will – I believe actually we do have a Creole in-house, but there's languages of lesser diffusion which require less frequent use so we don't have those people on staff. And so for those, they contract their services.

CHIEF JUDGE MYERS: Portuguese, French, Mandarin Chinese.

JUDGE CALDERON: Arabic, French, Creole. I mean, there's you know – and this is not in my current role, but I remember many years back we had to find a Mam interpreter which is a Mexican dialect that is not Spanish, it's a native tongue. There's only a few of those so we had to call – because what we used to do, it was just a language line. So there's these languages that are only spoken in you know remote parts of other countries but they're well known enough that we can find interpreters for them.

CHIEF JUDGE MYERS: Okay. What's the role of the interpreter judge? How do you fit into that equation?

JUDGE CALDERON: I feel that I'm more of a liaison than anything else. I try to assist them with prioritizing the demand for services, what courtrooms are going to be able to use these services because the demand for a trial is different than a demand for a plea. And remember, we're all working off the same staff and the same number of contractors. So if there's a trial going on, the question becomes, is that going to use up three interpreters, four interpreters depending on the length of the trial? That's going to be half of our staff so maybe we'll need to have some contract interpreters come in to either do the trial or cover other hearings. So it's just really just kind of trying to do the best to spread out the resources we have. And you know, since this pandemic, I mean again, the – we're so fortunate to have this system as developed as it is because there's so many cases that we wouldn't be able to even deal with without this virtual remote interpreting because a lot of the stuff we're doing is via a TEAMS platform, or via the CISCO platform. But for quite a period of time we weren't even in the courtroom so it's not like you could call in to the courtroom. And you know for real-time interpreting, when you do have them in the courtroom, the time that it adds by doing it contemporaneously versus in real-time or simultaneous, is that we don't have to hear the back and forth between the interpreter and the defendant or the interpreter and the petitioner, the respondent, depending on what setting they're in. We have a seamless system.

CHIEF JUDGE MYERS: Yeah, so the words I've heard associated with that are simultaneous and consecutive.

JUDGE CALDERON: Right.

CHIEF JUDGE MYERS: And in the consecutive translation, we have, let's take a Spanish-speaking witness for example. And a questioner announces a question in English. The interpreter then translates that question from English into Spanish to the witness who then responds to that question in Spanish, which is then translated into English for the benefit of the questioner and everybody else in the courtroom. And so you hear the same question and answer twice at least in that process assuming all of the translation goes well, and it takes a lot of time. It's very time consuming and that was one of the challenges with telephone, with remote translation services or interpretation services in that context. With virtual remote, tell us what's different? How does that change?

JUDGE CALDERON: Well, either there's a phone line that the person utilizing these services can use, so when we had our virtual jury courtroom, there's a phone that was down there that they could speak into and listen in to so that that simultaneous translation could occur and we would hear over our audio the response by the interpreter. So I would ask a question. There would be a brief pause and then we'd hear just the interpreter's response in English. So makes for a very easy record. It's not confusing. And so in the courtroom, the way that that's translated is that there's a headset attached the podium which the witness can use to engage in that simultaneous translation. And it really speeds up the proceeding because although the exchange is the same, there is not these pauses in between each – they're really just having a real-time conversation translation and answer and then we just get the response.

CHIEF JUDGE MYERS: And I've listened to that process sometimes and it seems to me that the interpreter actually as you're speaking your English question frequently has started the translation even though you haven't finished your question, and they're keeping it up and it turns into this more simultaneous process that helps to speed things up.

JUDGE CALDERON: I can – I can tell you from – because I’m bilingual, and it is not just, you know, it’s not an easy thing to do. It is a skill. It’s a gift really because it’s not anybody who can do that in real-time and remember not only what they’re saying, what was said but what’s being said, and then in real-time translate that into another language and then listen. So you know appreciating how difficult it is to do makes me very sensitive about taking my time,, speaking slowly when we’re using a translator because I’ve tried to do it just as an exercise. And, you know, maybe the first couple of sentences I can get through it, but when one person is talking and I’m trying to talk and – it’s very difficult. It is very, very difficult.

CHIEF JUDGE MYERS: When we go to judicial college, we do an exercise to help try to appreciate what it’s like to sit in the seat of an interpreter, and with three people with – so two English-speaking folks on either side of the interpreter role. Each of us sits in that interpreter role. And all we try to do is to repeat what was spoken to us in English to the other person and then to repeat their answer that was given to us in English, back in English and we quickly learn just how difficult it is to manage all of that flow of sound and meaning. And you said something earlier, and I think it’s important that we don’t gloss over it. Every day you swear in your interpreters. They are under oath. And what are they swearing that they will do?

JUDGE CALDERON: That they will truthfully and accurately to the best of their ability translate from English to Spanish and Spanish to English.

CHIEF JUDGE MYERS: All right. And truthfully and accurately matters to a criminal defendant who is on trial for allegations of some criminal offense to a jury who needs to hear truth.

JUDGE CALDERON: Right.

CHIEF JUDGE MYERS: Makes a difference. Yeah. Need versus resources.

JUDGE CALDERON: There's a lot of need. I mean, you gave the numbers, the percentages. You know, it's shocking, it's amazing how much these interpreters get done with the – you know, they're not fully staffed right now. Because of COVID the certification process has been delayed so the people who have been recently taken on can do certain things but they're not fully certified to do, for example, a trial so they're down in that. But what they accomplish in a given day, when you think about, you know, how many criminal divisions we have, county and felony, so circuit and county, and then you add into that all of our due process courts where we're talking about our domestic violence divisions, both -- and again, these are resources that are pulled in the entire circuit. So it's juvenile, Orange County, the jail and Osceola. And for eight people to be able to cover that much ground with you know some contract employees, it's just amazing. I mean, what they do is just amazing.

CHIEF JUDGE MYERS: It is phenomenal and one of the things that has helped us in that process is this VRI, the Virtual Remote Interpreting. It used to be the model that an interpreter would have to move about, run around to the different courtrooms in a courthouse, to the different courthouses in a county and even to different courthouses amongst a circuit in the multiple counties. And so much of an interpreter's time was spent traveling. And when we were able to succeed with the virtual remote interpreting, we were able to position the interpreter in a spot and then to remotely access all of those different places in a way that we took all of the inefficiencies of the system out of the equation and instead we're able to focus them on providing service. So it's multiplied really the impact of the number of interpreters that we have throughout the circuit.

JUDGE CALDERON: And it's really an amazing system because it works so well for both you know the judge and the interpreter. It really meets both of their needs because the other big inefficiency was waiting. Because they'd get to a courtroom because the case is set at 9 but the case may not be called until 9:15 so that's 15 minutes that the interpreter was sitting in the courtroom waiting for a case to be called. Now, the judge – and you know, when you're sitting on the bench and you see the interpreter there, you're trying to move your docket along, you don't want to keep them waiting. You know they've got places to go. So it takes the pressure off the judge because it's on demand. You push a button. You get your interpreter. Now you have your interpreter. The interpreter is not waiting for their case to be called. They hear the phone ring. They're like it's time to interpret. The phone's ringing. I'm ready to go. So really, I mean, it's just – it's just a great process and I think everybody's really happy with it because again, if that phone's not ringing or that button is not being pushed, the interpreter isn't needed.

CHIEF JUDGE MYERS: You touched a little bit on this but let's kind of wrap up this topic with the impacts of COVID and how we've worked with interpretation through that. We're struggling for space. We know that we can't bring lots of people into courtrooms because of the risks associated with crowds and being in confined spaces. How has VRI and the interpret – how have the interpreters done through that process?

JUDGE CALDERON: They're great. I mean, they're doing phenomenal. For them not much has changed because they're appearing by video. What's different, is before we would just hear their voice but now because we built up the technology around the video conferencing, we actually get to see them on the screen while they're interpreting, which is great because if for some reason, maybe the person you know can understand a little better if they can maybe see the mouth moving or things like that. But you've eliminated the need to have one more person in

the courtroom. You've eliminated the risk for the people in the courtroom. You've eliminated that risk for the interpreter themselves and I think it makes just for a safer environment. But I think from their part not much has changed other than now we can see them on the screen when they're doing their interpretation.

CHIEF JUDGE MYERS: Wow, we didn't touch on this type of interpretation but for sign language interpreters, that's critical.

JUDGE CALDERON: Right. Yes.

CHIEF JUDGE MYERS: Obviously we have to be able to see the interpreter and that's become part of the everyday in this process.

JUDGE CALDERON: Yeah.

CHIEF JUDGE MYERS: Well, Judge Calderon, I'm so grateful for your willingness to take on the extra work that goes with serving as our interpreter judge in the circuit. I'm so confident in the work that you're doing and really grateful for what you've done. Thank you for that and thanks for joining us here today.

JUDGE CALDERON: Thank you.

NARRATOR: You've been listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Donald A. Myers, Jr. and the Ninth Judicial Circuit Court of Florida. For more information about the Ninth Judicial Circuit Court, follow us on Twitter, Facebook, Instagram and LinkedIn.

(Music)