

THE ETHICIST

Interpretive Confidence

Some time ago I was working as a court interpreter, translating what is said in court for the defendant and what the defendant says for the court. During a recess, the defendant confided that he did commit the crime and intended to take the stand and lie about it. I sought the advice of a colleague, who then informed the judge. As a result, I was chastised and lost my job. Was I wrong to divulge this information? E.N., Seattle

You were. Even if you made no explicit pledge of confidentiality, your role as an interpreter invites the defendant to confide in you, a relationship that does not terminate during a recess, out in the hall by the doughnut cart.

The connection you've cultivated -- emotionally, psychologically -- endures. Unless you cautioned the defendant that you might disclose what he said, you abused his trust and your position.

Robin G. Steinberg, executive director of the Bronx Defenders, a public defenders' organization in the Bronx (well, they would be), says of interpreters: "They become the only bridge between the attorney and the client. Those confidential communications can only occur with the interpreter, and those conversations are, indeed, confidential. There would be absolutely no way for a client to know that communications s/he makes just to the interpreter are subject to disclosure."

Steinberg is right. A defendant naturally sees you as a quasi member of his legal team, someone to whom he can speak freely. Moreover, his requiring an interpreter indicates that he has limited facility with English and so is isolated in the court setting, making him even more apt to be candid with someone who speaks his language.

What you could have done was speak to the defendant's lawyer. Generally, in the United States, if a client baldly announces an intention to lie on the stand, his lawyer is ethically bound to prevent him. Here in New York State, if a lawyer is unable to do that, he or she may, but is not required to, speak to the judge.

While you acted badly, your colleague acted worse, imperiling the defendant and betraying your trust. I'm surprised that the judge spared him a sound thrashing, if that remedy is available under Seattle law.