

CERTIFIED COPY

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF:
REQUIRING THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO TO CONDUCT JUDICIAL PROCEEDINGS IN THE SPANISH LANGUAGE.

Misc. 89-082 (HL)

Handwritten notes and date stamp: JUN 31 1989

RESOLUTION

WHEREAS: Paragraph (b) of Subpart 5, Section 11 of S. 711 contemplates that Congress enact legislation requiring the United States District Court for the District of Puerto Rico to conduct proceedings in the Spanish language, upon request of any party to the proceedings; and

WHEREAS: The concept of providing a bilingual option, although seductive at first blush in a District where Spanish is the predominant language, has far reaching implications when examined in light of due process, budgetary considerations, and workability; and

WHEREAS: The Judicial Conference of the United States adopted the following resolution at its meeting on March 7-9, 1979:

RESOLVED: The Conference takes no position concerning the policy implications of proposed legislation which would authorize the use of Spanish in the United States District Court for the District of Puerto Rico. However, the Conference opposes the enactment by Congress of a bill similar to H.R. 13950, introduced in the 95th Congress, unless proper consideration is given to the following practical effects of this legislation which would have an adverse impact on the administration of justice, both as to trials in the United States District Court of Puerto Rico and as to appeals from such court to the First Circuit:

- 1. The problem of adapting an English-speaking federal court system based on interpretations of cases and statutes

2.-

written in the English language to cases involving Spanish-speaking defendants;

2. Greatly increased expenses, including costs required for additional equipment, space and personnel;

3. Delays in both trials and appeals;

4. Difficulties in obtaining Spanish-speaking reporters, translators and other necessary personnel' and

5. Difficultie arising from delays in the immediate review by the Court, of Appeals of stays and emergency orders;

and

WHEREAS: It is our strong belief that the introduction of a Spanish language option in the federal district court in Puerto Rico will cause the court to become an isolated entity in an otherwise unified federal system in that it would (1) limit the ability of non-Spanish speaking members of the federal bar in Puerto Rico and elsewhere from practicing in the District Court of Puerto Rico, (2) encourage the appearance at the federal bar of attorneys whose English is inadequate for responsible federal practice, and (3) cause a diminution in the quality of justice and the access to justice available to the people of Puerto Rico; and

WHEREAS: We have been informed that the first year cost of instituting a Spanish language option in the federal district court in Puerto Rico would most likely range from \$3 million to \$4 million and could exceed \$8 million if, at the current rate of appeal, all appeals to the First Circuit from the District of Puerto Rico are from Spanish language proceedings; and

3.-

WHEREAS: We have been informed that the institution of a Spanish language option would require locating, hiring and training between 25 and 126 full-time translators, at a recurring yearly cost ranging from \$2.5 million to \$3.25 million and increasing to as much as \$7 million, depending on the rate of appeals from Spanish language proceedings; and

WHEREAS: It is highly unlikely that the court would be able to locate the necessary number of qualified translators; and

WHEREAS: The added cost would come at a time when the judiciary is attempting to function at a funding level substantially below its requirements; and

WHEREAS: The current budget constraints make such an expenditure difficult to justify and in the absence of such an expenditure, litigants in Puerto Rico would become second class citizens in that they would be forced to litigate in a district court lacking proper appellate review and subjection; and

WHEREAS: We have been informed that the difficulty in the processing of Spanish language appeals would result in at least a 4.5 month delay in processing of an average Spanish language appeal. (We believe that appellate delay would be very serious under such a system, and we believe, further, that such delay would result in substantial injustice); and

WHEREAS: It has long been accepted and indeed noted in case law that the U.S. District Court for the District of Puerto Rico is not a local court of Puerto Rico, but is an Article III court:

Indeed, it is difficult to conceive how this court could remain a viable part of the federal

4.-

system if proceedings here were conducted in Spanish. U.S. v. Amy Valentine, 288 F.Supp. 957 (D.C.P.R. 1968).

[F]urthermore, considering that this Court is now a Constitutional Court pursuant to Article III, Section 2 of the Constitution, the use of English in its proceedings, and the language qualification requirement of jurors which follow as the logical consequence thereof, is not merely a question of convenience or practicability but is a constitutional imperative ... U.S. v. Ramos Colón, 415 F.Supp. 459,465 (D.C.P.R. 1976);

and

WHEREAS: All seven judges in this District are bilingual. The present system of sequential translation for non-English speaking persons is working admirably well. (Mistranslations are corrected on the spot in open court with the participation of all parties. This process ensures, as simultaneous translation cannot, an accurate translation at no additional cost. In a simultaneous translation, errors, mistranslations--particularly of colloquialisms--may never be corrected properly, because neither the judge nor the lawyers can tell what the simultaneous translator is translating to the other side or to the transcriber. Judicial proceedings, where life, liberty, and property rights are at stake, should not be left to the happenstance of a mistranslation); and

WHEREAS: The financial and practical burdens do not justify any modifications to the present system of sequential translations in open court, it is now

WHEREFORE, resolved that this Court, by unanimous vote of its seven judges, hereby registers its objections to the Spanish language option provision of S. 711.

5.-

The Clerk of this Court is hereby instructed to serve a certified copy of this resolution to:

Hon. J. Bennett Johnston, La., Chairman
Committee on Energy and Natural Resources;

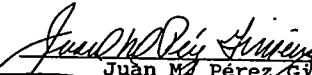
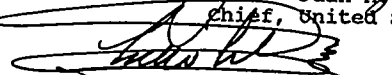
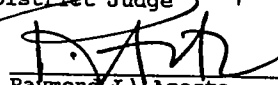

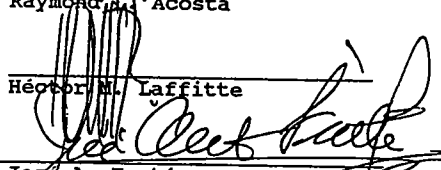
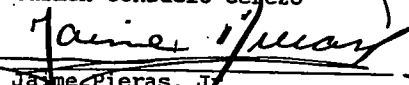
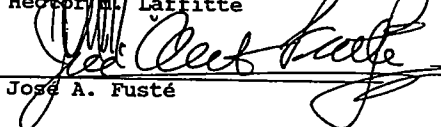
Hon. James A. McClure, Idaho,
Ranking Minority Member
Committee on Energy and Natural Resources;
Hon. William H. Rehnquist, Chief Justice, as
Chairman of the United States Judicial
Conference;

Hon. Levin H. Campbell, Chief Judge for the Court
of Appeals for the First Circuit;

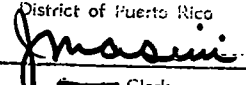
Mr. L. Ralph Mecham, Director, Administrative
Office of the United States Courts.

IT IS SO ORDERED.

At San Juan, Puerto Rico, this 30 day of June, 1989.

 _____ Juan M. Pérez Giménez Chief, United States District Judge	 _____ Gilberto Gierbolini	 _____ Raymond J. Acosta
 _____ Carmen Consuelo Cerezo	 _____ Héctor M. Laffitte	
 _____ Jaime Pieras, Jr.	 _____ José A. Fusté	

Certified to be a true and full copy
of the original.
JUAN M. MASINI-SOLER, CLERK
U.S. District Court for the
District of Puerto Rico

By: 

Clerk

Date: June 30, 1989