

No.

IN THE SUPREME COURT OF THE UNITED STATES

PABLO GUTIERREZ, PETITIONER

v.

STATE OF FLORIDA, RESPONDENT.

*ON PETITION FOR A WRIT OF CERTIORARI TO
THE FOURTH DISTRICT COURT OF APPEAL OF FLORIDA*

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

DANIEL EISINGER
Public Defender

Jeffrey L. Anderson *
Assistant Public Defender
Counsel of Record
Office of the Public Defender
Fifteenth Judicial Circuit of Florida
421 Third Street
West Palm Beach, FL 33401
(561) 355-7600
janderson@pd15.org
jcwalsh@pd15.org
appeals@pd15.org

* Member of the United States Supreme Court Bar

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

PABLO GUTIERREZ,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2023-1523

[August 8, 2024]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Cymonie S. Rowe, Judge; L.T. Case No. 50-2019-CF-001268-AXXX-MB.

Carey Haughwout, Public Defender, and Jeffrey L. Anderson, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Deborah Gail Koenig, Senior Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Affirmed.

GERBER, CONNER and KUNTZ, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

October 14, 2024

PABLO GUTIERREZ,
Appellant(s)
v.

CASE NO. - 4D2023-1523
L.T. No. - 502019CF001268AMB

STATE OF FLORIDA,
Appellee(s).

BY ORDER OF THE COURT:

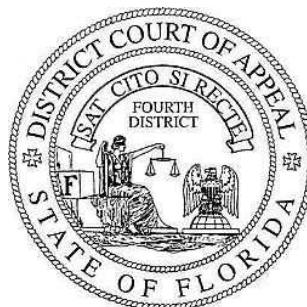
ORDERED that Appellant's August 16, 2024 motion for rehearing, rehearing en banc, written opinion, and certification is denied.

Served:
Jeffrey L Anderson
Attorney General-W.P.B.
Deborah Gail Koenig
Palm Beach Public Defender

KR

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.

Lonn Weissblum
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2023-1523 October 14, 2024



POINT I

RECORDED EVIDENCE PRESENTED AGAINST APPELLANT WAS NOT TRANSLATED FOR APPELLANT THUS DEPRIVING HIM OF HIS CONSTITUTIONAL RIGHTS

***** During the playing of the recordings to the jury it was discovered that the interpreter was not translating the recordings for Appellant T400 -401. **** When the trial court asked the interpreter about not translating the exhibits, the interpreter stated that videos or audios do not get interpreted T402 5-7. The trial court stated the following regarding interpreters not translating recordings in court:

THE COURT: Please be seated. Administrative Order number 2.506-114, subsection 11 specifically says staff interpreters **shall not translate audio or video recordings during Court proceedings**. This is signed by then Chief Judge Colbath in 2014.

T403 lines 1-5 (emphasis added).*****Defense counsel acknowledged the order but stated, “By not having a translation of this being played in Court, Mr. Gutierrez for all intents and purposes absent from a material critical stage of the evidence presentation.” T403 lines 8-12. Defense counsel continued that Appellant had no knowledge of English and it was antiquated not to allow him access to some three-and-a-half hours of evidence T430 lines 15-19. The trial court responded, “-- that’s the administrative order” ***** Defense counsel

replied, that was not the issue -- "The issue is that he has an affirmative right to be present for the presentation of evidence against him in a trial. He is not present when he cannot understand the proceedings" T404. Defense counsel stated these were constitutional issues ***** The trial court told defense counsel she had her appeal and had made a record **** The recordings were continued to be played to the jury.

After the State rested, Appellant was questioned through an interpreter as to whether he would testify T517. There were some things Appellant did not understand T518 lines 16-21, but ultimately said it was his decision not to testify T519. Appellant explained:

The reason why I don't want to testify is because I heard their testimony yesterday and I didn't understand that because it was in English and there was no interpreter.

T520 line 23 –521 line 1. The trial court informed Appellant there was nothing it could change and the appellate court would have to address the problem T 521 lines 8-10.

Appellant had the right to an interpreter to translate at the critical stage of the criminal proceeding