



The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

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FOR IMMEDIATE RELEASE

Interbranch Commission Supports MidPenn Legal's Successful Motion to Publish Pennsylvania Superior Court's Opinion to Uphold Language Access Rights

*The Opinion Provides Essential Guidance on and Protects the Rights of Individuals
with Limited English Proficiency in Pennsylvania*

Harrisburg, January 23, 2025 – The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness (“Interbranch Commission”) celebrates the decision of the Pennsylvania Superior Court, issued on January 15, 2025, to publish its opinion in *Ortega v. Henriquez*, thus designating it as legally binding and precedential. The case implicates significant concerns regarding language access and procedural fairness in the Commonwealth’s justice system.

The Superior Court elected to take this action following a motion filed by MidPenn Legal Services (“MPLS”), counsel of record on the case. The motion, which the Interbranch Commission, American Civil Liberties Union of Pennsylvania, Pennsylvania Legal Aid Network, Inc., Community Justice Project, and Justice at Work all separately supported via letters appended to the motion, underscores the substantial public interest in clarifying the rights to which limited English proficient individuals are entitled under Pennsylvania law. Said Interbranch Commission Executive Director Maraleen Shields: “The Superior Court’s decision to publish its opinion constitutes a meaningful opportunity to provide essential guidance for trial courts and practitioners, enhance judicial accountability, and protect the rights of court users in need of language services. In taking this action, the Court centers the needs of the court user and recognizes the importance of equal access to justice regardless of one’s current language abilities.”

The Case

Ortega v. Henriquez involves Jose V. Ortega (“Father”) appealing a decision issued by the Schuylkill County Court of Common Pleas on March 27, 2024. The decision denied Mr. Ortega’s petition for a Protection from Abuse (“PFA”) order against Olga L. Henriquez (“Mother”), a former girlfriend with whom he previously resided and shared three children. Father alleged physical abuse by Mother that included biting and hitting him and threatening him with a knife. Following these allegations, a temporary PFA order was granted. The order evicted Mother from the residence and awarded temporary custody of the children to Father, pending the scheduling of a final hearing on the matter.

During the final hearing, the judge engaged in behavior implicating significant concerns regarding Father’s statutory and constitutional rights. Specifically, the judge instructed the master-level court-appointed interpreter to stop translating portions of Father’s direct testimony, instead requiring him to answer in English despite the court’s prior recognition that both Father and Mother needed an interpreter and the Father’s evident difficulty responding in English. The court also questioned the Father’s need for an interpreter based on how long Father had resided in the United States and interrupted and hurried Father’s presentation of evidence. The court ultimately rejected his PFA petition and awarding temporary custody to Mother.

On appeal, the Superior Court of Pennsylvania found that the trial court violated Father’s rights by failing to consistently provide interpretation services, thereby hindering his ability to present his case and compromising a fair assessment of his credibility. The Superior Court vacated the trial court’s decision and remanded the case for a new hearing, ensuring the availability and proper usage of interpreter services throughout the proceedings. The decision, at 598 MDA 2024 (Pa. Super. Ct.), was initially designated as non-precedential. The published opinion may be access [here](#).

Historical Context

While both the Interpreter Act and Pennsylvania’s Language Access Plan establish critical protections, the complaint process for addressing failures to adhere to these standards remains cumbersome and opaque. Attorneys, interpreters, and participants are often disincentivized from reporting violations due to concerns about professional repercussions, procedural hurdles, or the perceived futility of raising complaints. Therefore, failure to provide consistent or adequate language access services, as seen in *Ortega*, may go unaddressed unless a party has access to the significant (and oftentimes prohibitive) resources needed to pursue an appeal. The Superior Court’s decision to publish its opinion in *Ortega* as precedential constitutes an important step forward in highlighting these systemic barriers to accountability in language access cases.

The Interbranch Commission has a longstanding history of advocating for improved access to interpreter and translation services in the Commonwealth’s courts and administrative agencies. The Commission played a key role in the passage of [Act 172 \(2006\)](#) (the “Interpreter Act”), whose provisions setting forth litigants’ and court users’ right to certified or otherwise qualified interpreters served in part as the basis for the appeal in *Ortega v. Henriquez*. In the spirit of improving access to interpreters and the interpreter certification process, the Interbranch Commission endeavors to meet with the Administrative Office of Pennsylvania Courts (“AOPC”) periodically to offer feedback and support. The Interbranch Commission’s Language Access Committee is developing a toolkit designed to improve public knowledge of language access rights and processes.

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The Interbranch Commission for Gender, Racial, and Ethnic Fairness was established in 2005 by the three branches of Pennsylvania government. The purpose of the Interbranch Commission is to promote equal application of the law. The Interbranch Commission fulfills its purpose by implementing the recommendations from a 2003 study by the Supreme Court Committee on Racial

and Gender Bias in the Justice System (“Committee”); investigating and implementing new initiatives that may not have been addressed by the Committee; suggesting ways to reduce bias in all three branches of Pennsylvania government; raising both public and professional awareness of its work; and increasing public confidence in Pennsylvania government. The Interbranch Commission presently conducts its work through six Committees: Criminal Justice, Domestic Violence and Sexual Assault Victims/Survivors, Equal Opportunity and Diversity, Jury Service, Language Access, and LGBTQ+ Rights.

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