

Lost in Translation

Google Translate might not always be the best way to obtain search consent.

BY PIERRE GROSDDIER

What are police officers to do with pulled-over motorists who speak no or only broken English? They certainly cannot expect to call in interpreters on demand. Turning to Google Translate seems like a sensible idea. But as two recent decisions show, the results are mixed.

In *United States v. Salas Antuna*, a trooper pulled over the defendant on a Texas highway for a minor traffic offense.¹ A visibly anxious Salas Antuna presented his Mexican driver's license and revealed his limited English. The trooper twice asked whether the car contained "drogas," which Salas denied each time. The trooper then asked, "Can I look? Can I search?" and pointed to his eyes, then to the trunk. Salas responded by opening the trunk, which the trooper closed after a first fruitless search. Shortly thereafter, the trooper used Google Translate on his phone to formulate a search question in Spanish.² The trooper pointed his fingers to his eyes and then to the car and twice asked Salas "¿Puedo buscar?" to which Salas responded "si" both times. This second search uncovered crystal and liquid methamphetamine.

Salas was charged and moved to suppress the evidence on the ground that the language barrier voided his consent. The court held that Salas conveyed effective consent to the trunk search when he opened it at the trooper's request. Salas next argued that the trooper asking "¿Puedo buscar?"—which the court translated as "May I look for?"—insufficiently relayed a search request.³ In rejecting this argument, the court cited a U.S. 5th Circuit Court of Appeals decision, which held "that any words, when viewed in context, that objectively communicate to a reasonable individual that the officer is

requesting permission to examine the vehicle and its contents constitute a valid search request for Fourth Amendment purposes."⁴

Finally, the court held that even if *puedo buscar* is not a "legally precise translation" for "May I search," the trooper relied on it in good faith and "reasonably believed" that Salas consented to the search. This good faith reliance on the translation meant that the evidence fell under the aegis of the eponymous exception to the exclusionary rule. For these reasons, the court denied Salas' motion to suppress.⁵

More recently, in *United States v. Cruz-Zamora*, a trooper pulled over a Spanish-speaking driver on a Kansas interstate.⁶ The trooper brought Omar Cruz-Zamora into his patrol car and questioned him through Google Translate on his cruiser's laptop. Cruz-Zamora read the Spanish translations of the questions off the Google Translate window, sometimes aloud. The record contained only a written transcript of the recorded car conversation and did not include the Google Translate texts—except when Cruz-Zamora read the Spanish questions aloud. Cruz-Zamora responded, "yeah, yeah, go," when the trooper pointed to his eyes and then to the car and allegedly asked Cruz-Zamora whether he could search the car. The search yielded about 14 pounds of drugs. Cruz-Zamora was indicted and moved to suppress the seized evidence on the ground that the search violated his Fourth Amendment rights because he did not understand that the trooper sought permission to search his car.⁷

The court found that even though Cruz-Zamora demonstrated some comprehension of the trooper's questions, he frequently struggled with them. The

court specifically noted that it was unclear whether Cruz-Zamora understood the trooper's Google-translated car search question for its intent. An expert witness who reviewed the audio recording testified that even though Google correctly translated "Can I search the car?" to "¿Puedo buscar el auto?," this last expression became "Can I find the car?" when retranslated by Google in reverse.⁸ Thus, the court found that even though Google's translation into Spanish was technically correct, "it is impossible to know" whether Cruz-Zamora truly understood the question and consented to the search. The court held that, under the "totality of the circumstances," the government had not met its burden of showing that Cruz-Zamora gave his consent to search "freely and voluntarily."⁹ The court also rejected the government's attempt to invoke the good faith exception to the exclusionary rule as in *Salas*. It distinguished this latter decision on the fact that Salas had voluntarily opened his trunk, which amounted to an affirmative act of consent. For these reasons, the court granted Cruz-Zamora's motion to suppress.¹⁰ TBJ

Notes

1. No. 6:16-86, 2017 WL 2255565, at *1 (S.D. Tex. May 23, 2017) (mem. op.) (appeal filed).
2. *Id.* and n.2.
3. *Id.* at *4.
4. *Id.* (citing *United States v. Rich*, 992 F.2d 502, 503 (5th Cir. 1993)).
5. *Id.* at *5.
6. 318 F.Supp.3d 1264, at *1266 (D. Kan. 2018) (mem. op.) (appeal filed).
7. *Id.* at **1266-67.
8. *Id.* at **1267, 1270.
9. *Id.* at **1268, 1270.
10. *Id.* at **1270-71.



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