

**QUESTION 7 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
III OR IN EXAMPLIFY ANSWER SCREEN 7**

Hieu Chin was employed as a seasonal worker in rural Michigan. He was arrested and charged with armed robbery. Both the arresting officer and the detective who interviewed Chin concluded Chin did not speak English or Spanish. The court also knew Chin did not speak or understand English or Spanish.

MCL 775.19a states:

If an accused person is . . . tried and it appears to the judge that the person is incapable of adequately understanding the charge or presenting a defense to the charge because of a lack of ability to understand or speak the English language . . . the judge shall appoint a qualified person to act as an interpreter.

At the beginning of the trial the court asked Chin's attorney if Chin needed an interpreter. Chin's attorney declined and asserted the presence of an interpreter at trial would prejudice Chin. Chin said nothing. The court did not ask Chin and did not appoint an interpreter for him.

Trial commenced. Several of the prosecution witnesses spoke Spanish, not English. They testified through a court interpreter. The law requires an interpreter to translate verbatim only the questions of counsel and only the responses of the witnesses.

During the testimony of the witnesses, it became clear that the interpreter deviated from a literal translation of the specific questions posed by the lawyers and the specific answers provided by the witnesses. Instead, the interpreter engaged in long, private dialogues with the witnesses. Chin's attorney objected each time. The interpreter responded, "I am just clarifying the answer," or "I am just reconciling the witness' true answer with what was said earlier," or "The witness doesn't understand."

Chin was convicted.

Chin contends he did not participate in his trial because he did not have an interpreter appointed for him, he did not understand what happened during trial and did not know what the witnesses said. Chin states he was only physically present at trial.

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III*****
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1. Identify and discuss the requirements for a valid waiver and whether the waiver of the interpreter was valid in this case.

2. Specifically identify which, if any, of Chin's constitutional trial right(s) were violated? If so, explain how they were violated. Do not discuss ineffective assistance of counsel.

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