

## Credibility of a deaf-mute witness

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by BENCHPRESS  
DAILY COURTSIDE REPORT

One evening at around 8 p.m., a man was in his car, talking on his cellphone, when two men approached his car with the intent of robbing him. When the man on his cellphone stepped out of the car, he was stabbed by one of the two men several times. The man's thorax was seriously wounded, which resulted in his death. Two cellphones, a wallet, some cash, and jewelry were taken from the victim. Little did the robbers know that a fourteen year-old boy had witnessed the entire crime. The boy had been playing basketball in the park right beside the parking lot and decided to take a bathroom break by the cars.

When the crime of robbery with homicide was filed against the two men, the prosecution only presented this one witness. During trial, this boy positively identified the two accused as the ones who stabbed the victim and stole his personal property. The problem presented by the defense was that the boy was a deaf-mute. Throughout his testimony, he was assisted by a licensed sign language interpreter from the Philippine Registry of Interpreters for the Deaf. Thus, the deaf-mute should be unqualified to be a credible witness. Regardless, the trial court found the accused guilty beyond reasonable doubt of the crime of robbery with homicide. It found the witness' testimony simple and credible and had no ill motive to give a false testimony. The Court of Appeals held that the boy was a competent witness who was "able to draw and make sketches in open court to show the relative position of things and persons as he perceived like a normal person. By using signs and signals, he was able to recount clearly what he witnessed."

On appeal, the Supreme Court (SC) declared that "the mere fact that a witness is a deaf-mute does not render him unqualified to be a witness" –

The rule is that all persons who can perceive, and perceiving, can make known their perception to others, may be witnesses. A deaf-mute may not be able to hear and speak but his/her other senses, such as his/her sense of sight, remain functional and allow him/her to make observations about his/her environment and experiences. The inability to hear and speak may prevent a deaf-mute from communicating orally with others but he/she may still communicate with others in writing or through signs and symbols and, as in this case, sketches. Thus, a deaf-mute is competent to be a witness so long as he/she has the faculty to make observations and he/she can make those observations known to others.

Citing *People v. Tuangco*, the SC reiterated that all persons who can perceive, and perceiving, can make known their perception to others, may be witnesses. Deaf-mutes are competent witnesses where they (1) can understand and appreciate the sanctity of an oath; (2) can comprehend facts they are going to testify on; and (3) can communicate their ideas through a qualified interpreter. Case law, such as *People v. De Leon* and *People v. Sasota*, have also considered deaf-mutes as qualified witnesses. In both cases, the accused was convicted on the

basis of the testimony of a deaf-mute. Moreover, the settled rule is that the positive and credible testimony of a single witness is sufficient to secure the conviction of an accused.

What the SC held material was that he positively identified the accused and personally saw what the accused did to the victim. The findings of the medico-legal officer who autopsied the victim likewise corroborated the deaf-mutes testimony (People v. Aleman, G.R. No. 181539, 24 July 2013, J. Leonardo-De Castro).

Ref.: <http://www.manilatimes.net/credibility-of-a-deaf-mute-witness/31269/>

## DEAF-MUTE WITNESS:

A deaf-mute is not incompetent as a witness. All persons who can perceive, and perceiving, can make known their perception to others, may be witnesses. Deaf-mutes are competent witnesses where they (1) can understand and appreciate the sanctity of an oath; (2) can comprehend facts they are going to testify on; and (3) can communicate their ideas through a qualified interpreter. (*People vs. Hayag*, 101 SCRA 67). Thus, in *People vs. De Leon*, 50 Phil. 539 and *People vs. Sasota*, 52 Phil. 281, the accused was convicted on the basis of the testimony of a deaf-mute. Although in *People vs. Bustos*, 51 Phil 389, the testimony of a deaf-mute was rejected, this was because there were times during his testimony that the interpreter could not make out what the witness meant by the signs she used.

Ref.: <http://www.mvplaw17.com/node/116>

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