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**IN THE
COURT OF APPEALS OF INDIANA**

RICARDO ANGULO,)
)
 Appellant-Defendant,)
)
 vs.) No. 29A04-0602-CR-60
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE HAMILTON SUPERIOR COURT
The Honorable Wayne Sturtevant, Judge
Cause No. 29D05-0310-FD-6853

OCTOBER 31, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBERTSON, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant Ricardo Angulo brings a direct appeal from his conviction by a jury of the Class D felony of intimidation.

We affirm.

ISSUE

Angulo states the issue as whether there is sufficient evidence to sustain a conviction for intimidation.

FACTS

Angulo and a friend went to a grocery store where Angulo had been employed for some period of time. They went to the dairy department where Mark Hosier, the dairy department manager, was working. Hosier noticed that Angulo was giving him “dirty looks,” as he had been doing for some weeks previously. Hosier approached Angulo and asked if Angulo was mad at him. Angulo said, “You know what you did to my brother. You’re dead.” While making the comment Angulo imitated holding a gun with his right hand and pointing it to Hosier’s head.

Hosier was not immediately aware as to why he was being threatened; however, it then occurred to Hosier that he was a confidential informant at a drug transaction involving Pedro Angulo, Ricardo’s brother. As a result of that occurrence, Pedro pled guilty to the Class A felony of dealing in cocaine. Angulo appeared very agitated, so Hosier denied any knowledge of what Angulo claimed. Hosier sought advice, and after a couple of hours, he went to the police.

At trial, Angulo rested without presenting evidence. An interpreter was used at the trial and at the police interview of Angulo at the police department.

Additional facts will be disclosed as needed.

DISCUSSION AND DECISION

Our standard of review when considering the sufficiency of the evidence is well settled. *Morrison v. State*, 824 N.E.2d 734, 742 (Ind. Ct. App. 2005), *trans. denied*. We will not reweigh the evidence or assess the credibility of the witnesses. *Id.* We will only consider the evidence most favorable to the judgment, together with all reasonable inferences that can be drawn therefrom. *Id.* We will uphold a conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

The charging information, based on Ind. Code § 35-45-2-1, reads:

On or about October 20, 2003, Ricardo Angulo did communicate a threat to Mark Hosier, with the intent that Mark Hosier be placed in fear of retaliation for a prior lawful act, to-wit: working as a confidential informant; said threat being to commit a forcible felony, to-wit: Murder.

It was Hosier's testimony that Angulo spoke to him in English. Angulo's argument is that he does not speak English, but only Spanish. Therefore, no threat was communicated to Hosier, who does not speak Spanish.

Angulo directs us to *Casey v. State*, 676 N.E.2d 1069, 1072 (Ind. Ct. App. 1997) for the proposition that the State must prove the defendant threatened the victim with the intent that he be placed in fear of retaliation for a prior lawful act; that the lawful act

occurred prior to the threat; and, that the defendant intended to place the person in fear for that particular act.

Angulo asks us to reweigh the evidence and assess the credibility of the witnesses. There is no question that Hosier's lawful act, acting as a confidential informant, occurred prior to Angulo's threat. As to whether Hosier was placed in fear he responded to the question as to how, when Angulo made the gun gesture with his hand, it made him feel. Hosier said, "it scared the crap out of me." After Hosier had figured out the relationship between the defendant and the defendant's brother, he was asked how he felt. Hosier replied that he was really scared, very fearful, and that he believed his life was in danger.

Turning to whether the threat was communicated, we note that Hosier testified that Angulo made the threat in English. Hosier on two different occasions testified that Angulo said "you're dead" in English. Hosier was asked if it was his testimony that Angulo spoke to him in English. Hosier said "yes." The jury submitted a question to Hosier enquiring as to whether Angulo's threat was all Spanish, broken English, or some of both. Hosier replied to the jury's question by saying Angulo spoke in English with a little accent to it.

Triers of fact determine not only the facts presented to them and their credibility, but any reasonable inferences from facts established either by direct or circumstantial evidence. *Brink v. State*, 837 N.E.2d 192, 197 (Ind. Ct. App. 2005), *trans. denied*. Applying the standard of review, we find that the evidence is sufficient to sustain the verdict in that the threat was adequately communicated to Hosier.

CONCLUSION

The evidence is sufficient to sustain the verdict. Judgment affirmed.

NAJAM, J., and ROBB, J., concur.