

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-1960

United States of America,

Appellee,

v.

Andrew W. Luster,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: July 5, 2000
Filed: July 12, 2000

Before LOKEN, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Andrew Luster challenges the sufficiency of the evidence supporting his convictions for witness tampering, in violation of 18 U.S.C. § 1512(b)(1), and witness retaliation, in violation of 18 U.S.C. § 1513(b)(2), for which the district court¹ sentenced him to concurrent terms of ten years imprisonment and three years supervised release.

¹The Honorable Warren K. Urbom, United States District Judge for the District of Nebraska.

Upon de novo review, viewing the evidence in the light most favorable to the government and accepting all reasonable inferences that support the jury's verdict, we conclude that the evidence is sufficient to sustain Luster's convictions. See United States v. Grimaldo, Nos. 99-1517/2177, 2000 WL 709498, at *6 (8th Cir. June 2, 2000) (standard of review). It is reasonable to infer from the evidence presented that either Jimmy or Jerry Johnson--who knew that Luster's victim had agreed to testify against Jimmy--conveyed the information to Luster, Jimmy's close friend. It is also reasonable to infer from the timing of Luster's attack (the month before Jimmy's trial) and his repeated statements to the victim ("Why are you snitching on my homey" and "Why are you testifying against my homey, you snitch") that his purpose was to prevent her from testifying against Jimmy and to retaliate against her for cooperating with law enforcement in Jimmy's case. See United States v. Jackson, 204 F.3d 812, 814 (8th Cir. 2000) (conviction may rest on indirect or circumstantial evidence, without direct evidence).

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.