

Ala. Code 1975, § 13A-8-15
EXTORTION SECOND DEGREE

The defendant is charged with extortion in the second degree.

A person commits the crime of extortion in the second degree if, he/she knowingly obtains by threat control over the property of another, with intent to deprive him/her of the property.

To convict, the State must prove beyond a reasonable doubt each of the following elements of extortion in the second degree:

- (1) The defendant obtained control over the property of another,
[Insert property description & owner's name];
- (2) The defendant did so by threat; **(AND)**
- (3) The defendant did so with the intent to to deprive him/her of the property.

The term *obtains or exerts control over property* includes, but is not necessarily limited to, the taking, carrying away, or the sale, conveyance, or transfer of title to or interest in, or possession of, property. [13A-8-1(8)]

[Read as appropriate] The term includes, but is not necessarily limited to, conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, larceny by conversion, embezzlement, extortion, or obtaining property by false pretenses [13A-8-1(8)]

Obtains means:

- a. In relation to property, to bring about a transfer or purported transfer of a legally recognized interest in the property, whether to the obtainer or another;
(OR)
- b. In relation to labor or service, to secure performance thereof.
[13A-8-1(7)]

Property is any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents, although the rights represented hereby have no physical location), contract right, chose-in-action, interest in a claim to wealth, credit, or any other article or thing of value of any kind. [13A-8-1(11)]

[Read as appropriate] Commodities of a public utility nature, such as gas, electricity, steam, and water, constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property. [13A-8-1(11)]

A *threat* is a menace, however communicated, to: **[Read as appropriate]**

- a. Cause damage to property; or
- b. Engage in other conduct constituting a crime; or
- c. Accuse any person of a crime or cause criminal charges to be instituted against any person; or
- d. Expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or
- e. Reveal any information sought to be concealed by the person threatened; or
- f. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- g. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
- h. Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
- i. Do any other act which would not in itself substantially benefit the actor but which is calculated to harm substantially another person with respect to his or her health, safety, business, calling, career, financial condition, reputation, or personal relationships.

[13A-8-1(14)]

Deprive means: **[Read as appropriate]**

- a. To withhold property or cause it to be withheld from a person permanently or for such period or under such circumstances that all or a portion of its use or benefit would be lost to him or her;
 - b. To dispose of the property so as to make it unlikely that the owner would recover it;
 - c. To retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return;
 - d. To sell, give, pledge, or otherwise transfer any interest in the property;
- (OR)**
- e. To subject the property to the claim of a person other than the owner.
- [13A-8-1(2)]

A person acts with *intent* to deprive another of his/her property when he/she acts with the purpose of causing that result. [13A-2-2(1)]

[Read as appropriate] A person is not liable for a threat where the threat is a menace, however communicated, to accuse any person of a crime or cause criminal charges to be instituted against any person, if he/she honestly claims the property as restitution or indemnification for harm done in the circumstances to which the threat relates, or as compensation for property or lawful services. [13A-8-15(b)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of extortion in the second degree, then you shall find the defendant guilty of extortion in the second degree.

If you find that the State has failed to prove any one or more of the elements of the offense of extortion in the second degree, then you cannot find the defendant guilty of extortion in the second degree.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

Use Note

The burden of injecting the issue of claim of right is on the defendant, but

this does not shift the burden of proof. [13A-8-15(b)] The jury should not be instructed that the defendant carries this burden.

[Approved 05-17-24]