

GRAND LARCENY IN THE FOURTH DEGREE
(Extortion)
Penal Law §155.30(6)
(Committed on or after Sept. 1, 1967)

Under our law, a person is guilty of Grand Larceny in the Fourth Degree when such person steals property and when the property, regardless of its nature and value, is obtained by extortion.

A person STEALS PROPERTY and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or herself [or to a third person], such person wrongfully takes, obtains, or withholds such property from an owner of the property.¹

The following terms used in that definition have a special meaning:

PROPERTY means any money, personal property, or thing of value.²

OWNER means a person having a right to possession of the property superior to that of the person who takes it.³

¹See Penal Law § 155.05(1).

² See Penal Law § 155.00(1). The statutory definition of property also includes the following: “or real property, computer data, computer program, thing in action, evidence of debt or contract, or any article, substance or thing of value including any gas, steam, water or electricity, which is provided for a charge or compensation.” Unless the property listed in this portion of the definition is in issue, this portion of the definition need not be read.

INTENT means conscious objective or purpose. Thus, a person acts with INTENT TO DEPRIVE ANOTHER OF PROPERTY OR TO APPROPRIATE PROPERTY TO HIMSELF OR HERSELF [*or to a third person*] when such person's conscious objective or purpose is:

(1) to withhold the property or cause it to be withheld permanently⁴, *or*

(2) to exercise control over the property, [*or to aid a third person to exercise control over it*], permanently⁵, *or*

(3) to dispose of the property either for the benefit of himself or herself [*or a third person*], *or*, under such circumstances as to render it unlikely that an owner will recover such property.⁶

³See Penal Law § 155.00(5). Also see that section for special definitions of “owner” to cover the situations (1) where the alleged owner obtained the property by theft, (2) where the alleged owner is a joint or common owner of the property, and (3) where the property is in the possession of the alleged owner but some other person has a security interest in the property.

⁴ In the typical larceny, it should not be necessary to include the alternate statutory language which follows the word “permanently”; namely: “or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to such person.”

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⁶See Penal Law §§ 15.05(1); 155.00(3); 155.03(4).

A person WRONGFULLY TAKES, OBTAINS, OR WITHHOLDS property from an owner when that person obtains such property, regardless of its nature or value, by extortion.

A person obtains property by extortion when he/she compels or induces another person to deliver such property to himself/herself, or to a third person, by means of instilling in him/her a fear that, if the property is not so delivered, the actor or another will:

Select appropriate alternative(s):

Cause physical injury to some person in the future; or

Cause damage to property; or

Engage in other conduct constituting a crime; or

Accuse some person of a crime or cause criminal charges to be instituted against him/her; or

Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act; or

Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

Use or abuse his/her position as a public servant by performing some act within or related to his/her

official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his/her health, safety, business, calling, career, financial condition, reputation or personal relationships.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date) , in the county of (county), the defendant, (defendant's name), wrongfully took, obtained, or withheld property from its owner by extortion; and
2. That the defendant did so with the intent to deprive another of the property or to appropriate the property to himself/herself [or to a third person].

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.