

135. Extortion: s 415(1) (From 1 December 2008)

135.1 Legislation

[Last reviewed: December 2024]

Criminal Code

[Section 415](#) – Extortion

135.2 Commentary

[Last reviewed: December 2024]

The Defendant must have:

- (1) Made a demand;
- (2) Without reasonable cause;
- (3) With intent to:
 - a. Gain a benefit for any person (whether or not the Defendant); or
 - b. Cause a detriment to any person other than the Defendant; and
- (4) with a threat to cause a detriment to any person other than the Defendant.

Section 415(6) states that '*threat includes a statement that may reasonably be interpreted as a threat*'. Section 415(3) states that '[a] reference to making a demand includes causing someone to receive a demand'. Section 415(2) lists certain things that are immaterial.

See the direction on intention in **Chapter 59 – Intention**.

Meaning of 'threat to cause detriment'

A reference to a threat to cause a detriment includes a statement that gives rise to a threat of detriment: s 415(4). There is no need for detriment to actually have been caused (see *R v Lovett* [2020] QCA 86, [35]).

A statement by a Defendant that he or she would withhold evidence advantageous to a person in a committal proceedings, unless the person paid a sum of money demanded, is capable of constituting a 'threat of detriment' (see *R v Jessen* [1997] 2 Qd R 213, [218]-[220]).

Without reasonable cause

In *R v Li*; *R v McKenzie*; *R v Pisasale* [2020] QCA 39, the Court stated that:

'Whether an accused acts 'without reasonable cause' is a matter to be determined objectively. The scope of the application of the phrase 'without reasonable cause' extends to both that which is demanded to be done as well as the threatened detriment.'

The relationship between the element of 'without reasonable cause' and the defences of mistake of fact and honest claim of right, under ss 24 and 22 of the *Criminal Code* respectively, was discussed at length in *Pisasale* [2020] QCA 39 (see also *R v Campbell* [1997] QCA 127, where obiter remarks were made as to application of s 24).

The Court in *Pisasale* followed the decision in *R v Succarieh* [2018] 3 Qd R 104, where Gotterson JA held at [29] that:

'A consideration of whether there is reasonable cause for making a particular demand involves consideration of any detriment threatened in the course of making the demand. It is not limited to a consideration of whether there is reasonable cause for that which is demanded be done.'

In *R v Campbell* [1997] QCA 127, the Court stated that:

'... it seems that there cannot be reasonable and probable cause to make a demand 'containing threats of injury or detriment' which would involve the commission of a criminal offence.'

It is for the person charged to raise the question whether there was a reasonable cause for the demand which was made and that, once that has been made an issue, it is for the prosecution to exclude the existence of a cause beyond reasonable doubt (see *R v Johnson and Edwards* [1981] Qd R 440).

Aggravation

The offence is a prescribed offence under s 161Q of the *Penalties and Sentences Act 1992* (Qld), so a serious organised crime circumstance of aggravation is applicable.

Two other aggravations are set out in s 415(1), both of which concern the result, or likely result, of carrying out the threat the subject of the offence.

135.3 Suggested Direction

[Last reviewed: December 2024]

The prosecution must prove each of the following elements beyond reasonable doubt:

1. The Defendant made a demand.

[Outline the demand that was made].

2. The Defendant made the demand with the intent to (refer to (a) or (b) as relevant):

(a) Gain a benefit for [the Defendant and/or someone else].

(or)

(b) To cause a detriment to [specify the person/s].

3. The demand was made with a threat to cause a detriment to [specify the person/s in question].

There is no need for the detriment to have actually been caused.

4. The demand and the threat to cause a detriment were made without reasonable cause.

It is not for the Defendant to prove that [he/she] acted with reasonable cause; it is for the prosecution to prove that the Defendant did not.