

## **Question**

Extortion Under Color of Official Right Extortion under color of official right does not require proof of force, threats, or duress when the defendant is a public official. The wrongful use of official power itself supplies the necessary coercive element (U.S. v. Williams, 621 F.2d 123, 124 (5th Cir. 1980); U.S. v. Dozier, 672 F.2d 531, 537 (5th Cir. 1982); U.S. v. Wright, 797 F.2d 245, 250 (5th Cir. 1986); U.S. v. Stephens, 964 F.2d 424, 427 (5th Cir. 1992)). The essence of extortion by a public official is the misuse of official position to obtain property not due to the official or their office. The wrongful use of otherwise valid official power can convert what would otherwise be a lawful act into extortion (Reagan v. Warden FCI Oakdale, CIVIL ACTION NO. 2:17-cv-0807 SECTION P (W.D. La. Dec 27, 2018); U.S. v. Pattan, 931 F.2d 1035, 1040 (5th Cir. 1991); United States v. Hyde, 448 F.2d 815, 833 (5th Cir. 1971)). Consent obtained through fear of economic loss, fear of official sanction, or abuse of official power is not true consent for purposes of the statute. The courts have recognized that the fear induced by a public official's authority can be sufficient to satisfy the statutory requirement (United States v. Rashad, 687 F.3d 637, 643 (5th Cir. 2012); U.S. v. Brown, 298 F.3d 392, 399 (5th Cir. 2002)). The Hobbs Act applies not only to public officials but also to private individuals who aid, abet, or conspire with public officials to commit extortion under color of official right (United States v. Rosenthal, 805 F.3d 523, 531 (5th Cir. 2015); United States v. Rashad, 687 F.3d 637, 643 (5th Cir. 2012)). In U.S. v. Williams, the court held that the coercive element is supplied by the existence of the public office itself, and that a conviction may be sustained upon a finding that property was unlawfully obtained under color of official right, without any need to show personal benefit or actual or threatened force, violence, or fear (U.S. v. Williams, 621 F.2d 123, 124 (5th Cir. 1980)). U.S. v. Dozier and U.S. v. Wright further clarify that the wrongful use of otherwise valid official power may convert lawful action into extortion, and that the inducement comes from the nature of the office, not from any personal gain (U.S. v. Dozier, 672 F.2d 531, 537 (5th Cir. 1982); U.S. v. Wright, 797 F.2d 245, 250 (5th Cir. 1986)) Does this imply that if a judge commits extortion and someone else benefits from it, this is enough to satisfy the extortion?

## **Answer (Fifth Circuit)**

### **Short response**

Yes, if a judge (or any public official) commits extortion under color of official right, it is sufficient to satisfy the statutory requirements even if someone else, rather than the judge, receives the benefit; the key element is the wrongful use of official power to obtain property not due, regardless of who ultimately benefits.

# **Summary**

The law governing extortion under color of official right, particularly as interpreted under the Hobbs Act and by the Fifth Circuit, does not require that the public official personally receive the benefit of the extortionate act. Instead, the focus is on the misuse of official authority to obtain property or payments not due to the official or their office, and the coercive element is supplied by the existence and misuse of the public office itself.

Multiple authorities confirm that the benefit of the extortionate act may flow to a third party, and the offense is complete so long as the public official knowingly uses their position to obtain property wrongfully, even if the property is directed to someone else. The courts have also made clear that private individuals who aid, abet, or conspire with public officials in such schemes may also be liable, and the absence of personal gain to the official does not negate the offense.

## **Background and Relevant Law**

### **Statutory Framework**

The principal statutory authority is the Hobbs Act, codified at 18 U.S.C. § 1951(b)(2), which defines extortion as the obtaining of property from another, with their consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. The statute is designed to address both public corruption and private criminal conduct affecting interstate commerce.

### **Case Law**

The Fifth Circuit and other federal courts have developed a robust body of case law interpreting the Hobbs Act's "under color of official right" prong. The key elements, as consistently articulated, are:

1. The defendant is a public official (or acts in concert with one).
2. The official uses their position to obtain property not due to them or their office.
3. The property is obtained with the victim's consent, but that consent is induced by the misuse of official power, not by true voluntariness.

Notably, the courts have repeatedly emphasized that, for public officials, the coercive element is supplied by the office itself, and there is no need to prove force, threats, or duress. The wrongful use of otherwise valid official power is sufficient to convert lawful action into extortion.

### **Key Fifth Circuit Authorities**

- In [U.S. v. Williams, 621 F.2d 123 \(5th Cir. 1980\)](#), the court held that the existence of the public office supplies the necessary coercive element,

and a conviction may be sustained even without proof of personal benefit or actual or threatened force, violence, or fear.

- [U.S. v. Dozier](#), 672 F.2d 531 (5th Cir. 1982) and [U.S. v. Wright](#), 797 F.2d 245 (5th Cir. 1986) further clarify that the wrongful use of otherwise valid official power may convert lawful action into extortion, and the inducement comes from the nature of the office, not from any personal gain.
- [U.S. v. Stephens](#), 964 F.2d 424 (5th Cir. 1992) and [U.S. v. Pattan](#), 931 F.2d 1035 (5th Cir. 1991) reinforce that the wrongful taking by a public officer of money or property not due to them or their office constitutes extortion, regardless of whether the taking was accomplished by force, threats, or use of fear.
- [United States v. Rosenthal](#), 805 F.3d 523 (5th Cir. 2015) and [United States v. Rashad](#), 687 F.3d 637 (5th Cir. 2012) confirm that the Hobbs Act applies to both public officials and private individuals who aid, abet, or conspire with public officials to commit extortion under color of official right.

## Other Relevant Authorities

- [Reagan v. Warden FCI Oakdale](#), CIVIL ACTION NO. 2:17-cv-0807 SECTION P (W.D. La. Dec 27, 2018) explains that a public official is guilty of extortion if they accept or demand property in return for promised performance or nonperformance of an official act, and that a private citizen can be guilty of conspiracy to commit such extortion if the scheme involves a public official knowingly participating and benefiting from it.
- [U.S. v. Carlock](#), 806 F.2d 535 (5th Cir. 1986) and [United States v. Hyde](#), 448 F.2d 815 (5th Cir. 1971) both make clear that the gravamen of the offense is the loss to the victim, not the personal benefit to the official.

## Administrative Decisions

- The administrative decision in [Matter of \[Name redacted\]](#) (2016) supports the proposition that, under the Hobbs Act, extortion under color of official right does not require a threat or affirmative act of inducement by a public official; the coercive element is satisfied by the official's position itself, and the benefit need not be personal to the official.

## Secondary Materials

- Secondary sources, such as "[The Bleeding Edge of Extortion: How Disregarding the Personal Benefit Poses a Danger in Novel Extortion Cases](#)," confirm that direct receipt of property or benefits by the extortionist is not necessary; it is sufficient if the property is directed to a third party.
- Other commentary, such as "CRIMINAL LAW--EXTORTION OR PUBLIC POLICY, WHERE DO WE DRAW THE LINE?" and "[The Hobbs Leviathan: the dangerous breadth of the Hobbs Act and other corruption statutes](#),"

reinforce that the “obtaining of property” element can be satisfied even if the public official does not personally benefit.

## Analysis

### The Core Question: Is Personal Benefit to the Official Required?

The central issue is whether, under the Hobbs Act and its interpretation by the Fifth Circuit, extortion under color of official right requires that the public official personally receive the benefit, or whether it is sufficient that someone else benefits as a result of the official’s misuse of power.

The overwhelming weight of authority confirms that personal benefit to the official is not required. The focus is on the misuse of official power to obtain property not due, and the offense is complete once the official, acting under color of office, wrongfully obtains property, regardless of who ultimately receives it.

### Case Law Synthesis

- In [U.S. v. Williams \(621 F.2d 123, 124 \(5th Cir. 1980\)\)](#), the court explicitly stated that the coercive element is supplied by the existence of the public office itself, and a conviction may be sustained without any need to show personal benefit or actual or threatened force, violence, or fear.
- [U.S. v. Dozier \(672 F.2d 531, 537 \(5th Cir. 1982\)\)](#) and [U.S. v. Wright \(797 F.2d 245, 250 \(5th Cir. 1986\)\)](#) both reinforce that the wrongful use of otherwise valid official power may convert lawful action into extortion, and the inducement comes from the nature of the office, not from any personal gain.
- [U.S. v. Carlock \(806 F.2d 535 \(5th Cir. 1986\)\)](#) and [United States v. Hyde \(448 F.2d 815 \(5th Cir. 1971\)\)](#) clarify that the gravamen of the offense is the loss to the victim, not the personal benefit to the official. In [Hyde](#), the court held that one need not receive a personal benefit to be guilty of extortion; the key is the loss to the victim.
- [United States v. Rosenthal \(805 F.3d 523 \(5th Cir. 2015\)\)](#) is particularly instructive. In that case, a private individual was charged with aiding and abetting a judge in committing extortion by providing money for favorable judicial acts. The benefit flowed to the private individual, not the judge, but the court found this sufficient to satisfy the requirements of extortion under the Hobbs Act.
- [United States v. Rashad \(687 F.3d 637 \(5th Cir. 2012\)\)](#) further confirms that the benefit does not need to be personal to the public official; involvement in the extortion scheme is sufficient for liability.

## **Administrative and Secondary Support**

- The administrative decision in [Matter of \[Name redacted\]](#) (2016) supports the view that the coercive element is satisfied by the official's position, and the benefit need not be personal.
- Secondary materials, including "The Bleeding Edge of Extortion," confirm that the property may be directed to a third party, and the offense is still complete.

## **Application to the Judge Scenario**

Applying these principles, if a judge uses their official position to obtain property not due—whether for themselves or for another—the offense of extortion under color of official right is satisfied. The key is the knowing misuse of official power to obtain property, not the identity of the ultimate beneficiary.

For example, if a judge accepts a bribe on behalf of a friend or directs that a payment be made to a third party in exchange for a favorable ruling, the judge's conduct constitutes extortion under color of official right. The fact that the judge does not personally receive the benefit is immaterial; the wrongful use of official power is the critical element.

## **Liability of Private Individuals**

The law also makes clear that private individuals who aid, abet, or conspire with public officials in such schemes are equally liable. [United States v. Rosenthal](#) (805 F.3d 523 (5th Cir. 2015)) and [United States v. Rashad](#) (687 F.3d 637 (5th Cir. 2012)) both confirm that private parties who participate in or benefit from the extortionate scheme can be prosecuted, even if the public official is not the direct recipient of the benefit.

## **Knowledge and Intent**

The requisite intent for extortion under color of official right is knowledge that the payment was made in return for official acts, as clarified in [U.S. v. Impastato](#), 543 F.Supp.2d 569 (E.D. La. 2008) and [U.S. v. Partida](#), 385 F.3d 546 (5th Cir. 2004). The focus is on the official's knowing misuse of their position, not on their personal enrichment.

## **Victim's Consent**

Consent obtained through fear of economic loss, fear of official sanction, or abuse of official power is not true consent for purposes of the statute. The courts have recognized that the fear induced by a public official's authority can be sufficient to satisfy the statutory requirement, as seen in [United States v. Rashad](#) (687 F.3d 637, 643 (5th Cir. 2012)) and U.S. v. Brown, 298 F.3d 392, 399 (5th Cir. 2002).

## **Subsequent Negative Treatment**

It is important to note that [U.S. v. Box, 50 F.3d 345 \(5th Cir. 1995\)](#) was disapproved by U.S. v. Mann, 493 F.3d 484 (5th Cir. 2007). However, the core principle relevant here—that private individuals can be convicted of aiding and abetting a public official’s extortion—remains supported by other authorities, including [United States v. Rosenthal \(805 F.3d 523 \(5th Cir. 2015\)\)](#) and [United States v. Rashad \(687 F.3d 637 \(5th Cir. 2012\)\)](#). The negative treatment of Box does not undermine the broader rule that the benefit need not be personal to the official.

## **Exceptions and Caveats**

While the law is clear that personal benefit to the official is not required, the public official must be a knowing participant in the scheme. As explained in *Reagan v. Warden FCI Oakdale* (W.D. La. Dec 27, 2018), a private citizen can only be guilty of conspiracy to commit extortion under color of official right if the extortion was intended to result in the receipt of money by a public official, and the public official was a knowing participant in the scheme.

Additionally, the property must be obtained “from another,” and the misuse of official power must be the means by which the property is obtained. The courts have not required that the victim be aware of the official’s position, only that they believe the individual has the power to carry out the threat or promise, as clarified in [U.S. v. Rubio, 321 F.3d 517 \(5th Cir. 2003\)](#).

## **Conclusion**

In summary, under the Hobbs Act and as interpreted by the Fifth Circuit and related authorities, extortion under color of official right does not require that the public official personally benefit from the extortionate act. The offense is complete when a public official knowingly misuses their official position to obtain property not due, regardless of who ultimately receives the benefit. The law is clear that the wrongful use of official power is the critical element, and the benefit may flow to a third party without negating the offense. Private individuals who aid, abet, or conspire with public officials in such schemes are also liable. The focus remains on the misuse of official authority and the loss to the victim, not on the enrichment of the official.

## **Legal Authorities**

[United States v. Rosenthal, 805 F.3d 523 \(5th Cir. 2015\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

#### **Extract**

The Hobbs Act, 18 U.S.C. § 1951(b)(2), defines extortion as: 'the obtaining of property from another, with his consent, induced by wrongful use of actual

or threatened force, violence, or fear, or under color of official right'. 18 U.S.C. § 1951(b)(2). This section applies both to the extortionate acts of public officials, and to private individuals who aid and abet those acts. United States v. Rashad, 687 F.3d 637, 643 (5th Cir.2012). The indictment charged Rosenthal with aiding-and-abetting Limas in committing extortion under color of official right, by 'paying ... money and other compensation in return for favorable judicial acts of discretion ... that benefitted [Rosenthal]'.

## **Summary**

The passage from United States v. Rosenthal clarifies that the Hobbs Act covers extortion committed by public officials under color of official right. It also extends to private individuals who aid and abet such acts. The case specifically mentions that Rosenthal was charged with aiding and abetting a judge (Limas) in committing extortion by providing money for favorable judicial acts. This indicates that the benefit to a third party (Rosenthal) from the judge's extortionate acts is sufficient to satisfy the requirements of extortion under the Hobbs Act.

[United States v. Rashad, 687 F.3d 637 \(5th Cir. 2012\)](#)

## **U.S. Court of Appeals — Fifth Circuit**

### **Extract**

Usually, only public officials are charged with extorting property under color of official right. Tomblin, 46 F.3d at 1382. In Tomblin, the defendant won a new trial because he practiced extortion as a private individual claiming to exert influence over public officials, but he received the payments for himself alone. Tomblin, 46 F.3d at 1382-83. Rashad contends that because he, too, is a private citizen, he cannot be guilty of extortion "under color of official right." This argument misapprehends Tomblin and our circuit precedent. Tomblin was charged with conspiracy to extort under color of official right, not with the underlying substantive offense. Rashad's participation in an illegal agreement with public officials who were practicing extortion suffices to establish conspiratorial guilt. In various cases, courts have applied the "under color of official right" theory to private individuals who conspired with corrupt public officials, masqueraded as public officials, aided or abetted extortion by public officials, or were speaking for a public official.

## **Summary**

The benefit does not need to be personal to the public official; rather, the involvement in the extortion scheme is sufficient for liability. This suggests that if a judge (a public official) commits extortion and someone else benefits, the extortion charge can still be satisfied as long as the extortion was conducted under the color of official right.

[U.S. v. Rubio, 321 F.3d 517 \(5th Cir. 2003\)](#)

**U.S. Court of Appeals — Fifth Circuit**

**Extract**

Under the Hobbs Act, one of the elements of extortion is that property be obtained from another 'under the color of official right.' In order to prove this element, the government must prove that a public official obtained payment to which he was not entitled. *United States v. Stephens*, 964 F.2d 424, 429 (5th Cir.1992). When a defendant holds an office, it is not necessary that the person from whom the money was taken be aware of the extortionist's official position as long as the victim believes that the individual had the power to carry out the threat or promise made to the victim. *Id.* Moreover, a person who holds himself out as a public official is also acting 'under the color of official right' even though he actually holds no official position.

**Summary**

The passage from *U.S. v. Rubio* clarifies that under the Hobbs Act, extortion under color of official right involves a public official obtaining payment to which they are not entitled. It is not necessary for the victim to be aware of the official's position, as long as they believe the individual has the power to carry out the threat or promise. This implies that the focus is on the misuse of the official position to obtain something of value, rather than who benefits from the extortion. Therefore, if a judge commits extortion and someone else benefits, the act of extortion itself is still satisfied as long as the judge misused their official position to obtain something of value.

[U.S. v. Wright, 797 F.2d 245 \(5th Cir. 1986\)](#)

**U.S. Court of Appeals — Fifth Circuit**

**Extract**

A conviction under the Hobbs Act may be sustained by a finding that a public official has taken a fee, unlawfully, under color of his public office, in return for performance or nonperformance of an official act. There is no requirement that threat, force, or duress be proved when the defendant is a public officer. *United States v. Williams*, 621 F.2d 123, 124 (5th Cir.1980), cert. denied, 450 U.S. 919, 101 S.Ct. 1366, 67 L.Ed.2d 346 (1981). 'The coercive element is supplied by the existence of the public office itself.'

**Summary**

The passage from *U.S. v. Wright* clarifies that under the Hobbs Act, a public official can be convicted of extortion if they unlawfully take a fee under the color of their public office in exchange for performing or not performing an

official act. The coercive element is inherent in the public office itself, and there is no need to prove threat, force, or duress. This implies that the benefit to another party, rather than the public official, does not negate the extortion charge, as the wrongful use of official power is the key element.

[U.S. v. Pattan, 931 F.2d 1035 \(5th Cir. 1991\)](#)

**U.S. Court of Appeals — Fifth Circuit**

**Extract**

Extortion 'under color of official right' is the wrongful taking by a public officer of money or property not due to him or his office, whether or not the taking was accomplished by force, threats, or use of fear. In other words, the wrongful use of otherwise valid official power may convert dutiful action into extortion. It is the nature of the office itself which provides the necessary inducement taking the place of fear, duress, or threat when a defendant knowingly takes advantage of his office in relation to the payor.

**Summary**

The passage from U.S. v. Pattan clarifies that extortion under color of official right involves the wrongful use of official power by a public officer to obtain money or property not due to them or their office. The coercive element is supplied by the nature of the office itself, rather than any personal gain or use of force, threats, or fear. This implies that the benefit to another party, rather than the public official themselves, does not negate the occurrence of extortion. The focus is on the misuse of the official position to obtain property, regardless of who ultimately benefits.

[United States v. Marchan, 32 F.Supp.3d 753 \(S.D. Tex. 2013\)](#)

**U.S. District Court — Southern District of Texas**

**Extract**

Defendant has raised the issue of whether a person can aid and abet a Hobbs Act extortion while at the same time be the 'victim' of the extortion plot. The Hobbs Act criminalizes 'obstruct[ing], delay[ing], or affect[ing] commerce ... by robbery or extortion or attempt[ing] or conspir[ing] so to do....' 18 U.S.C. § 1951. 'Extortion' is defined in the statute as 'the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.' Id. Counts 3, 4 and 5 of Defendant's Indictment all charge Defendant with aiding and abetting Hobbs Act extortion under color of official right.

## **Summary**

The Hobbs Act covers extortion under color of official right, which includes obtaining property through misuse of official power. It also suggests that a private person can be held accountable for aiding and abetting such extortion. This implies that if a judge, as a public official, commits extortion and someone else benefits from it, the act can still satisfy the requirements of extortion under the Hobbs Act, as the wrongful use of official power is the key element.

[U.S. v. Dozier, 672 F.2d 531 \(5th Cir. 1982\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

#### **Extract**

The Hobbs Act prohibits the obstruction of commerce by extortion, which it defines as 'the obtaining of property from another, with his consent, induced by wrongful use or actual or threatened force, violence, or fear, or under color of official right.' 18 U.S.C. § 1951(b)(2) (emphasis supplied). Only last year we joined eight other circuits in holding 'that Hobbs Act violations based on extortion by a public official need not include proof of threat, fear, or duress.' United States v. Williams, 621 F.2d 123, 124 (5th Cir. 1980), cert. denied, 450 U.S. 919, 101 S.Ct. 1366, 67 L.Ed.2d 346 (1981). ... Extortion under the color of official right is the wrongful taking by a public officer of money or property not due him or his office, whether or not the taking was accomplished by force, threats, or use of fear. In other words, the wrongful use of otherwise valid official power may convert dutiful actions into extortion.

## **Summary**

The passage from "U.S. v. Dozier" clarifies that under the Hobbs Act, extortion by a public official does not require proof of threat, fear, or duress. The wrongful use of official power itself can constitute extortion. This implies that if a judge, as a public official, uses their official position wrongfully to obtain property not due to them or their office, it can be considered extortion under the Hobbs Act. The benefit to another party does not negate the extortion if the wrongful use of power is present.

[U.S. v. Stephens, 964 F.2d 424 \(5th Cir. 1992\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

#### **Extract**

"[E]xtortion under color of official right means the wrongful taking by a public officer of money or property not due to the officer or the office."

Snyder, 930 F.2d at 1093; see also United States v. Wright, 797 F.2d 245, 250 (5th Cir.) ("A conviction under the Hobbs Act may be sustained by a finding that a public official has taken a fee, unlawfully, under color of his public office, in return for performance or nonperformance of an official act.") reh'g denied, 804 F.2d 843 (5th Cir.1986), cert. denied, 481 U.S. 1013, 107 S.Ct. 1887, 95 L.Ed.2d 495 (1987). "There is no requirement that threat, force, or duress be proved when the defendant is a public officer." Wright, 797 F.2d at 250 (citation omitted). "The Government need only show that a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts." Evans v. United States, --- U.S. ----, ----, 112 S.Ct. 1881, 1889, 119 L.Ed.2d 57 (1992).

## **Summary**

The passage from U.S. v. Stephens clarifies that extortion under color of official right involves a public officer wrongfully taking money or property not due to them or their office. The passage emphasizes that there is no need to prove threat, force, or duress when the defendant is a public officer. The key requirement is that the public official obtained a payment to which they were not entitled, knowing it was made in return for official acts. This implies that the benefit to the public official is not a necessary element; rather, the wrongful use of their position to obtain something of value is sufficient. Therefore, if a judge commits extortion and someone else benefits from it, it can still satisfy the requirements for extortion under color of official right, as the focus is on the misuse of official power.

## [U.S. v. Partida, 385 F.3d 546 \(5th Cir. 2004\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

#### **Extract**

Although a public official commits Hobbs Act extortion if he obtains a payment to which he is not entitled, 'knowing that the payment was made in return for official acts,' Evans, 504 U.S. at 268, 112 S.Ct. 1881, more than one method exists by which a court may articulate that knowledge element. In Justice Kennedy's concurrence in Evans, he opined that jury instructions requiring a defendant's 'wrongful use of otherwise valid official power' 'made clear' the knowledge element. Id. at 277, 112 S.Ct. 1881 (Kennedy, J., concurring).

## **Summary**

The passage from U.S. v. Partida clarifies that a public official commits extortion under the Hobbs Act if they obtain a payment knowing it was made in return for official acts. The court emphasizes that the wrongful use of official power is key to establishing the knowledge element required for extortion. This suggests that the focus is on the misuse of official power to obtain payments, rather than on who benefits from the extortion. Therefore,

if a judge misuses their official position to obtain payments, it satisfies the extortion requirement, regardless of who ultimately benefits.

[U.S. v. Williams, 621 F.2d 123 \(5th Cir. 1980\)](#)

**U.S. Court of Appeals — Fifth Circuit**

**Extract**

The language, 'under color of official right,' is consonant with the common law definition of extortion, which could be committed only by a public official taking a fee under color of his office, with no proof of threat, force or duress required... The coercive element is supplied by the existence of the public office itself... It cannot be gainsaid that the statute on its face encompasses bribery of a public official, and that 'under color of official right' has a 'meaning, as a legal term of art, (that) is well-defined.'... 'It is the wrongful use of an otherwise valid power that converts dutiful action into extortion. If the purpose and effect are to intimidate others, forcing them to pay, the action constitutes extortion.'

**Summary**

The passage explains that extortion under color of official right does not require proof of threat, force, or duress when committed by a public official. The coercive element is inherent in the public office itself. The wrongful use of official power, even if the action is otherwise lawful, can constitute extortion if it is used to intimidate others into paying. The statute encompasses bribery of a public official, and the term "under color of official right" is well-defined as a legal term of art. Therefore, if a judge uses their official position to commit extortion, the coercive element is satisfied by the nature of their office, regardless of who benefits from the extortion.

[U.S. v. Tomblin, 46 F.3d 1369 \(5th Cir. 1995\)](#)

**U.S. Court of Appeals — Fifth Circuit**

**Extract**

Private persons have been convicted of extortion under color of official right, but these cases have been limited to ones in which a person masqueraded as a public official, was in the process of becoming a public official, or aided and abetted a public official's receipt of money to which he was not entitled. All these cases involved a public official in some past, present, or future capacity receiving money.

## **Summary**

Extortion under color of official right typically involves a public official receiving money or property to which they are not entitled. The passage also notes that private individuals can be convicted if they aid and abet a public official's receipt of such money. This suggests that the involvement of a public official in receiving the benefit is a key element. Therefore, if a judge (a public official) commits extortion and someone else benefits from it, it could satisfy the requirements for extortion under color of official right, as long as the judge's official position was used to obtain the benefit.

[U.S. v. Bright, 630 F.2d 804 \(5th Cir. 1980\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

#### **Extract**

From on or about January 1976 to on or about June 1977, in the Northern District of Mississippi, HARVEY HAMILTON, aided and abetted by HOUSTON MORRIS, JOHN HARTER and JOHN THOMAS 'BILL' CHANEY, did affect and attempt to affect commerce and the movement of articles in commerce by extortion, that is by knowingly and willfully obtaining the property of other persons with their consent induced by fear and under color of official right by causing owners and operators of honky-tonks in DeSoto County to make weekly payoffs to HARVEY HAMILTON, Sheriff to DeSoto County, in return for freedom from interference by the Sheriff's Office with gambling, sale of alcoholic beverages and other activities carried on at the honky-tonks; in violation of Sections 2 and 1951 of Title 18 of the United States Code.

## **Summary**

The extortion was committed by obtaining property with consent induced by fear and under color of official right. This aligns with the legal principle that extortion under color of official right does not require personal benefit to the official; it is sufficient that the official's position was used to obtain property wrongfully. Therefore, if a judge commits extortion and someone else benefits from it, it would still satisfy the requirements for extortion under color of official right, as the wrongful use of the official position is the key element.

[United States v. Hyde, 448 F.2d 815 \(5th Cir. 1971\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

## **Extract**

The language of the statute makes clear that the actions of officials may constitute extortion: (2) The term 'extortion' means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right. 18 U.S.C. § 1951(b) (2). The language is consistent with an interpretation that the wrongful use of an official right may be a basis for extortion.

## **Summary**

The passage from *United States v. Hyde* clarifies that extortion under color of official right involves the wrongful use of an official position to obtain property. The statute does not require that the official personally benefit from the extortion; rather, it focuses on the misuse of official power to induce consent through fear or coercion. This implies that if a judge uses their official position to extort, and someone else benefits from it, the act can still satisfy the definition of extortion under the statute, as the key element is the misuse of official power, not who benefits.

### [U.S. v. Box, 50 F.3d 345 \(5th Cir. 1995\)](#)

#### **U.S. Court of Appeals — Fifth Circuit**

## **Extract**

In a related argument, Box contends that he cannot be guilty of extortion 'under color of official right,' because he was a bail bondsman, not a public official. However, we previously have acknowledged that private persons may be convicted of aiding and abetting a public official's extortion. *United States v. Tomblin*, 46 F.3d 1369, 1382 & n. 26 (5th Cir. 1995) (citing *United States v. Margiotta*, 688 F.2d 108, 131 (2d Cir. 1982), cert. denied, 461 U.S. 913, 103 S.Ct. 1891, 77 L.Ed.2d 282 (1983)); see also *Evans*, 504 U.S. at 263-64 & n. 13, 112 S.Ct. at 1887 & n. 13 (noting that several states had defined extortion broadly enough to include the conduct of a private individual).

## **Summary**

Private individuals can be convicted of aiding and abetting a public official's extortion. This suggests that the benefit to a third party, even if not a public official, can be relevant in establishing extortion under color of official right. The focus is on the misuse of official power, and the involvement of private individuals does not negate the extortion charge if they aid or abet the public official.

### [Reagan v. Warden FCI Oakdale, CIVIL ACTION NO. 2:17-cv-0807 SECTION P \(W.D. La. Dec 27, 2018\)](#)

## **U.S. District Court — Western District of Louisiana**

### **Extract**

The jury charges described extortion as containing the following elements, which the government must prove beyond a reasonable doubt: (1) that the defendant obtained or attempted to obtain property from another, with that person's consent; and (2) that the defendant did so by wrongful use of actual or threatened force, violence, or fear, or that the defendant did so under color of official right. ... The wrongful use of otherwise valid official power may convert dutiful action into extortion. In other words, if a public official accepts or demands property in return for promised performance or nonperformance of an official act, the official is guilty of extortion. ... It further noted that a private citizen could only be guilty of conspiracy to commit extortion under color of official right if the extortion was intended to result in the receipt of money by a public official, and a public official was a knowing participant in the scheme.

### **Summary**

Extortion under color of official right involves a public official wrongfully obtaining property by using their official position. It also highlights that a private citizen can be guilty of conspiracy to commit such extortion if the scheme involves a public official knowingly participating and benefiting from it. This implies that if a judge, as a public official, commits extortion and someone else benefits from it, it could satisfy the elements of extortion under color of official right, provided the judge was a knowing participant in the scheme.

[U.S. v. Impastato, 543 F.Supp.2d 569 \(E.D. La. 2008\)](#)

## **U.S. District Court — Eastern District of Louisiana**

### **Extract**

In contrast, where extortion is committed under color of official right, case law suggests that the requisite intent is simply knowledge, namely that the defendant obtained a payment to which he is not entitled 'knowing that the payment was made in return for official acts.' United States v. Partida, 385 F.3d 546, 559 (5th Cir.2004), quoting Evans v. United States, 504 U.S. 255, 268, 112 S.Ct. 1881, 1889, 119 L.Ed.2d 57 (1992); United States v. Price, 617 F.2d 455, 458 (7th Cir.1980) (upholding conviction where defendant 'accepted money wrongfully and with the knowledge that it was paid to induce him to perform or to fail to perform official functions').

### **Summary**

For extortion under color of official right, the requisite intent is simply knowledge that the payment was made in return for official acts. This

suggests that the focus is on the misuse of official power to obtain something of value, regardless of who ultimately benefits. Therefore, if a judge commits extortion and someone else benefits, the act of extortion is still satisfied as long as the judge knowingly used their official position to obtain the payment.

### [U.S. v. Carlock, 806 F.2d 535 \(5th Cir. 1986\)](#)

#### **U.S. Court of Appeals — Fifth Circuit**

##### **Extract**

We and the Third Circuit have given 'similar' readings to the Hobbs Act. See United States v. Hyde, 448 F.2d 815 (5th Cir.1971); United States v. Provenzano, 334 F.2d 678, 686 (3d Cir.1964). The Hobbs Act defines extortion as 'the obtaining of property from another.' 18 U.S.C. Sec. 1951(b) (2). Yet, in Hyde, we held that '[o]ne need receive no personal benefit to be guilty of extortion; the gravamen of the offense is loss to the victim.' Id. at 843.

##### **Summary**

The passage from "U.S. v. Carlock" clarifies that under the Hobbs Act, extortion does not require the perpetrator to receive a personal benefit. The focus is on the loss to the victim. This interpretation aligns with the broader understanding of extortion under color of official right, where the misuse of official power to obtain property is key, regardless of who benefits. Therefore, if a judge commits extortion and someone else benefits, it still satisfies the extortion requirement as long as there is a loss to the victim.

### [The Hobbs leviathan: the dangerous breadth of the Hobbs Act and other corruption statutes.](#)

#### **Notre Dame Law Review - University of Notre Dame Law School - Gawey, John S. - 2011-11-01**

##### **Extract**

The Hobbs Act defines extortion as: '[T]he obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.' 18 U.S.C. [section]1951 (b) (2) (2006).

##### **Summary**

The passage provides the federal definition of extortion under the Hobbs Act, which includes obtaining property under color of official right. This definition does not require the extortion to benefit the public official

personally; it only requires that the property is obtained through the misuse of official power. Therefore, if a judge uses their official position to obtain property for someone else, it would still satisfy the definition of extortion under the Hobbs Act.

[CRIMINAL LAW--EXTORTION OR PUBLIC POLICY, WHERE DO WE DRAW THE LINE?: FIRST CIRCUIT FINDS HOBBS ACT EXTORTION MAY APPLY TO THE ACTIONS OF TWO BOSTON CITY HALL OFFICIALS--UNITED STATES V. BRISSETTE, 919 F.3D 670 \(1ST CIR. 2019\).](#)

**Suffolk Journal of Trial & Appellate Advocacy - Suffolk University Law School - Soares, Alexis - 2021-06-01**

## **Extract**

The First Circuit ultimately determined that the 'obtaining of property' element of the extortion provision may be satisfied even when no personal benefit is incurred. ... its transfer to another of his choosing, irrespective of whether he receives a personal benefit as a result.

## **Summary**

Under the Hobbs Act, the "obtaining of property" element can be satisfied even if the public official does not personally benefit from the extortion. This suggests that the act of extortion is complete if the property is transferred to another party, regardless of whether the public official receives a personal benefit. This interpretation aligns with the broader understanding of extortion under color of official right, where the misuse of official power to obtain property is key, not the personal gain of the official.

[The Bleeding Edge of Extortion: How Disregarding the Personal Benefit Poses a Danger in Novel Extortion Cases.](#)

**Suffolk University Law Review - Suffolk University Law School - Haggerty, Thomas M., Jr. - 2021-03-22**

## **Extract**

United States v. Provenzano, 334 F.2d 678, 686 (3d Cir. 1964) (holding direct receipt of property or benefits unnecessary to constitute extortion); United States v. Vigil, 523 F.3d 1258, 1264 (10th Cir. 2008) (holding directed transfer of property to third party constitutes 'obtaining property').

## **Summary**

Under the Hobbs Act, the direct receipt of property or benefits by the extortionist is not necessary to constitute extortion. It is sufficient if the property is directed to a third party. This aligns with the understanding that

extortion under color of official right does not require personal benefit to the public official, as the coercive element is supplied by the misuse of official power.

### Matter of [Name redacted]

#### **Decisions of the Administrative Appeals Office AAO**

##### **Extract**

In the alternative, the Petitioner asserts that he previously provided an analysis regarding how official misconduct in Indiana and extortion are substantially similar and, contrary to our prior determination, the definition of extortion provided in 18 U.S.C. § 1951 does not require as a necessary element, a threat, demand, or affirmative act of inducement by a public official. In support of his assertions, the Petitioner refers to the decisions in Evans v. U.S., 504 U.S. 255 (holding an '[a]ffirmative act of inducement by a public official, such as a demand, is not an element of the offense of extortion 'under color of official right' prohibited by the Hobbs Act [18 U.S.C. § 1951]')... Regarding the element of threat, we agree with the Petitioner that the federal definition of extortion does not require a threat or other affirmative act of inducement when an individual, like a police officer, is acting 'under color of official right'; the coercive element is satisfied by the fact that the individual is a police officer.

##### **Summary**

Under the Hobbs Act, extortion under color of official right does not require a threat or affirmative act of inducement by a public official. The coercive element is satisfied by the official's position itself. This suggests that if a judge, as a public official, commits extortion, the mere misuse of their official position could satisfy the requirements for extortion, even if someone else benefits from it. The passage supports the idea that the benefit does not need to be personal to the official, aligning with the broader interpretation of extortion under color of official right.

### MATTER OF D-M-C-B-

#### **Decisions of the Administrative Appeals Office AAO**

##### **Extract**

The Petitioner next asserts that '[t]he nature and elements of 18 U.S.C. § 912 ⊕ obtaining money or a thing of value by pretending to be a federal official track very closely to the nature and elements of 18 U.S.C. § 1951(b)- obtaining property under color of official right.' She claims that 'section 1951(b) does not require that force, violence, or fear is used when the alternative element of 'under color of official right' is present.' The Petitioner

is correct that the definition of extortion contained in 18 U.S.C. § 1951(b) contains as alternatives 'the obtaining of property. . . by. . . force, violence, or fear, or under color of official right.' However, as alluded to above, extortion under color of official right contemplates the obtaining of property by a public official, not by a private individual.

## **Summary**

Extortion under color of official right involves a public official obtaining property, and it does not require the use of force, violence, or fear when the element of "under color of official right" is present. This aligns with the understanding that the wrongful use of official power itself can constitute extortion. The passage does not directly address whether someone else benefiting from the extortion satisfies the requirement, but it emphasizes the role of the public official in obtaining property.

This memo was compiled by Vincent AI based on vLex materials available as of September 15, 2025. [View full answer on vLex](#)