

## **18 U.S.C. § 875. Interstate communications**

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(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

18 U.S.C.S. § 875 (LexisNexis, Lexis Advance through Public Law 117-327, approved December 27, 2022)

On April 4, 2023, KEVIN BARRY LOVE (“Love”) called ALMAGNO LAW, INC., the law office of Lawrence P. Almagno, Jr., Esq. (“Almagno”). Also present was Jesse Duarte, Esq. The law office is located in Cranston, Rhode Island. The law firm’s telephone number is (401) 946-4529. Almagno returned the call to Love, who proceeded to threaten Almagno.

A recording is attached.

During the conversation, Love made specific threats using the telephone and knowingly did so across state lines.

Love admits he is in the State of New York while making the call.

The sole purpose of the call was a communication threatening to injure the property and reputation of Almagno and accuse Almagno of a crime.

Love states the FBI and DOJ have already been contacted and insinuates that he can cause these governmental agencies to act on his behalf.

Love threatens Almagno’s law license and livelihood because he practiced his profession, by filing a collections action.

There was no attempt to settle or resolve the case. Love’s entire purpose was to extort, threaten, and intimidate.

Love has a history of threats and intimidation.

Love’s paramour (who he falsely claims is his wife), Kamillah Hanks, is an NYC Councilwoman. Love is her *de facto* agent and “enforcer.”

Love has already engaged conduct that smacks of extortion on numerous occasions. One witness is Michael J. Cox, 718-880-0426. Cox worked on Hank’s 2017 campaign and was owed \$14,000. Cox suffered a heart attack. Days later, Love “took Cox for a ride” in Brooklyn and tried to force him to take \$1,250 to “settle” the debt. Cox couldn’t leave the car because of his health conditions. Because of Love’s extortionate threats, Cox is fearful and has never been paid for his work.

Love's statements to Almagno, witnessed by Duarte, are clearly threatening and an attempt at extortion across state lines.

Focus in determining whether threat has been made is on whether defendant reasonably should have foreseen that statement he uttered would be taken as threat by those to whom it was made. *United States v. Fulmer*, 108 F.3d 1486, 46 Fed. R. Evid. Serv. (CBC) 411, 1997 U.S. App. LEXIS 5869 (1st Cir. 1997).

Defendant made at least two threats to operator of hotline dedicated to finding missing children, where during eight telephone calls over two-day period he told operator continuing saga of how he had abducted and sexually forced himself on his fourteen-year-old stepdaughter, though he was only playing elaborate prank. *United States v. Freeman*, 176 F.3d 575, 1999 U.S. App. LEXIS 9316 (1st Cir. 1999).

First Circuit saw no reason to depart from its prior law that objective test of defendant's intent was used from defendant's vantage point under this statute. *United States v. Clemens*, 738 F.3d 1, 2013 U.S. App. LEXIS 24488 (1st Cir. 2013).

Objective of party employing fear of economic loss or damage to reputation will have bearing on lawfulness of its use, and it is material whether defendant had claim of right to money demanded; where threat of harm to person's reputation seeks money or property to which threatener does not have, and cannot reasonably believe she has, claim of right, or where threat has no nexus to plausible claim of right, threat is inherently wrongful and its transmission in interstate commerce is prohibited by 18 USCS § 875(d). *United States v. Jackson*, 180 F.3d 55, 52 Fed. R. Evid. Serv. (CBC) 639, 1999 U.S. App. LEXIS 11906 (2d Cir.).

It is not whether means of communication chosen by defendant caused threat to reach "indefinite and unknown audience," but whether defendant intended to communicate threat to victim through chosen means. *United States v. Kelner*, 534 F.2d 1020, 1976 U.S. App. LEXIS 11878 (2d Cir.).

Although jury was erroneously instructed that communicating threat only required that reasonable person would regard communication as threat, error was harmless since evidence clearly showed that defendant had subjective intent to issue threat or knowledge that communication would be viewed as threat. *United States v. Choudhry*, 649 Fed. Appx. 60, 2016 U.S. App. LEXIS 9215 (2d Cir. 2016).

Providence Rhode Island FBI Office  
10 Dorrance Street, 900  
Providence, Rhode Island, 02903

New York City FBI Office  
26 Federal Plaza, 23rd Floor  
New York, NY 10278-0004