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Scott Walker says high court has said federal laws against extortion usually don't apply to unions

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With his standing in presidential preference polls down, Gov. Scott Walker went to Las Vegas on Sept. 14, 2015 to unveil a sweeping labor reform plan.

The Wisconsin Republican proposed eliminating the National Labor Relations Board, creating a national right-to-work law and preventing federal workers from collectively bargaining.
His plan also calls for changing federal law, saying it does not protect employees from "threats, violence and extortion from a union."
"As it stands," Walker claims in the plan, "the Supreme Court has ruled that federal prohibitions outlawing extortion usually do not apply to unions. I will ensure that employee rights are protected."

So -- in the context of workers being extorted by a union -- has the nation's highest court ruled that federal prohibitions against extortion usually don't apply?

It's a relatively technical claim, given that extortion or other acts of violence against a person can be prosecuted under state law, whether they involve a union or not.

Supreme Court case
To back Walker's claim, his campaign cited a controversial U.S. Supreme Court opinion in the 1973 case of *United States v. Enmons et al*.
Here are the facts of the case, according to the opinion:

Employees of the Gulf States Utilities Co. in Louisiana were on strike. Three officials of labor unions, including Travis Paul Enmons, were charged with committing acts of violence in an effort to get the company to agree to a contract with higher wages and other benefits. The charges included allegations of firing high-powered rifles at three company transformers and blowing up a transformer substation owned by the company.

So, in this case, union leaders were accused of committing extortion against an employer, not against workers. That's important, given that Walker's claim involves protecting employees from extortion by unions.

The criminal charges against the union officials were thrown out. A federal district court ruled that if the pay raises "sought by violent acts are wages to be paid for unneeded or unwanted services, or for no services at all," then the violence would constitute extortion under the Hobbs Act, a federal law that prohibits extortion that obstructs commerce.

In other words, acts of extortion to gain, for example, personal favors wouldn't be protected by the federal law. But the court determined that because the use of force was to obtain legitimate union objectives -- a better contract -- it did not violate the Hobbs Act, even though it could be prosecuted as a crime in state court.

In a 5-4 vote, the U.S. Supreme Court upheld the decision to dismiss the charges.

So, Walker is citing a Supreme Court case that says extortion by a union, if done in order to obtain a legitimate labor objective, does not violate a particular federal law.

But that case had to do with an employer being extorted by a union, and Walker's claim is about changing federal law to protect workers from what he terms as union extortion.

Moreover, Walker's claim leaves the impression that employees have no federal protections if they are extorted by their union.

Analysis

Walker's campaign also cited to us a more recent case, a 2014 criminal trial in Buffalo in which the Enmons ruling played a role. But that case also involved union extortion against an employer, as seven former labor leaders were charged with using death threats, assaults and vandalism to force construction companies into hiring union workers.

Trevor Burrus, a research fellow at the Center for Constitutional Studies at the libertarian Cato Institute in Washington, D.C., told us the end result of the Supreme Court ruling in the Enmons case "is that if a union or union member performs acts of violence and vandalism to achieve legitimate collective-bargaining objectives, such as higher wages, then it is not a violation of the Hobbs Act." He said he believes the ruling would apply to acts of union extortion against workers, but that he could not find appellate opinions that have ruled that way.

Law professor Marion Crain of the Washington University School of Law in St. Louis took a different view, telling us the Enmons case "has nothing to do with union abuse of power vis a vis workers. The case simply doesn't stand for that proposition."

Crain also pointed out that the federal Landrum-Griffin Act, adopted in 1959, has provisions to protect employees from unfair practices by unions. Several experts experts, including Burrus and Cornell University law professor Angela Cornell also noted the protections.

Federal law "prohibits unions from coercing or restraining employees in the exercise of their right to engage in, or refrain from, union and concerted activity. This would include violence or extortion," said University of Richmond law professor Ann Hodges.
In other words, despite the high court's ruling in the case Walker cites, there are other federal protections for workers.

Our rating
Walker said he will pursue change in federal law to protect employees from "extortion from a union" because "the Supreme Court has ruled that federal prohibitions outlawing extortion usually do not apply to unions."

The high court did rule that union extortion in pursuit of legitimate labor ends, such as a better contract, does not violate a particular federal law that prohibits extortion that obstructs commerce.

But that case did not involve union extortion against workers. Moreover, state as well as other federal laws protect workers against abuses by a union.

For a statement that contains an element of truth but ignores facts that would give a different impression, our rating is Mostly False.