



## United States v. Bernard L. Madoff

**Brief Fact Summary.** Relating to his orchestration of a Ponzi scheme allegedly resulting in the loss of \$65 billion dollars of client funds, Madoff (D) plead guilty to 11 counts of fraud, money laundering, theft and perjury.

**Synopsis of Rule of Law.** Symbolism plays an important role in both the retribution and deterrence contexts when choosing a proper criminal sentence.

**Facts.** Madoff (D), 71 years old, plead guilty to 11 counts of fraud, perjury, theft and money laundering relating to his establishing of the Ponzi scheme which allegedly resulted in the loss of \$65

billion of clients funds. Based on his projected life expectancy of thirteen years and the fact that he turned himself over to the FBI, Madoff (D) argued for a maximum sentence of 12 years. However, the maximum sentence of 150 years under the federal sentencing guidelines was sought for by the Government (P).

**Issue.** Does symbolism play an important role in both the retribution and deterrence contexts when choosing a proper criminal sentence?

**Held.** (Chin, J.) Yes. Symbolism plays an important role in both the restriction and deterrence contexts when choosing a proper criminal sentence. Pertaining to retribution, the court must show that the irresponsibility and intentional actions of Madoff (D) have real consequences on families, pension funds, charities and institutions. The society will also see that Madoff (D) gets the type of punishment he deserves based upon his admitted crime. This shows the importance of symbolism, which also passes across a very strong message that those who orchestrates this type of fraud would be apprehended, prosecuted and punished to the fullest extent of the Law. Finally, the importance attached to symbolism is connected with the fact that the victims of the Ponzi's scheme are given some level of comfort that the person who is

responsible for their loss has been punished. Based upon these factors, the full sentence of 150 years behind bars was awarded against Madoff (D).

**Discussion.** Symbolism plays a very important and central role when courts sentence defendants in larger and more high profile cases although most courts will not often expressly refer to the concept of symbolism in their sentencing decisions.

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