

# Chrisleys' Harsh Sentences Come Down To Harm And Hubris

By **Brandon Essig** (January 25, 2023)

White collar cases tend to draw the interest of the public, because they often involve irresistible elements — glamour, money, and defendants such as celebrities and public officials who do not fit our common perception of that term.

While it is of course true that most white collar defendants are not famous, they are usually successful, accomplished and productive members of society. For this reason, the crimes they commit typically do not draw the same punishment the public is used to in ordinary street crime cases.



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Thus, it was surprising to see recent headlines announcing stiff sentences for reality TV stars Todd and Julie Chrisley after their convictions for bank fraud and related tax charges.

Todd Chrisley was sentenced to 12 years in prison, and his wife Julie Chrisley to seven years. These sentences were below their applicable sentencing guidelines range, but not by much.

Data from the U.S. Sentencing Commission shows that on average, white collar defendants in fraud cases are sentenced to roughly 50% of their guidelines.<sup>[1]</sup> Many defendants get even less. By contrast, Todd and Julie Chrisley's sentences were 85% and 70%, respectively, of their guidelines.

U.S. District Judge Eleanor Ross recently doubled down on these stiff penalties, denying the Chrisleys' request to remain out of prison on bond pending their appeals.

Though white collar defendants do often receive light sentences compared to those charged with other offenses, this has less to do with their ostensible means and influence, and more to do with who they are and the crimes they commit.

Most white collar cases involve conduct that is simply a more wanton version of the ordinary sins people commit in their business lives. Some common examples: Fudging on expense reports devolves into outright theft of the company's money; inflating one's tax deductions spirals into straight lying and cheating.

It is also true that white collar defendants almost always have a good story to tell at sentencing to offset their aberrant conduct. Although the corporate thief fell from grace and gave into temptation, it turns out he spent years after college in the Peace Corps. The tax cheat was blinded by greed, but she also volunteered hours coaching youth soccer for years. Bank robbers usually don't have that story.

So why the stiff penalties for the Chrisleys? After all, they starred in a USA Network reality show, "Chrisley Knows Best," that ran for nine seasons on the fuel of their Southern charm.

Despite their ostentatious and apparently fabricated wealth, the series showed the Chrisleys to be doting parents who worked through those challenges while taking care of Todd's elderly mother.

Their harsh sentences can be summed up in two words: harm and hubris.

First, the evidence showed there were victims of their crimes that suffered real, tangible harm.

Most bank fraud cases result in some harm to the affected bank, but it is often negligible and easily absorbed. In the Chrisleys' case, the prosecutors presented evidence that their \$36 million bad-loan portfolio, spread across nearly a dozen financial institutions, contributed to three of these institutions becoming insolvent and going into receivership.

These facts appear to have been aggravated by evidence that the Chrisleys specifically sought out small, independent community banks that were more vulnerable to their bad loans.

These facts echo those in Elizabeth Holmes trial, where she was convicted of defrauding investors of more than \$100 million. She was recently sentenced within her guidelines range and benefited from no departure at all.

Many species of white collar cases involve only theoretical harm. A bribe to a public official, in a sense, steals the public trust, but there is no business or individual who can tell the judge at sentencing of the personal harm and financial loss they have suffered.

Second, the Chrisleys violated the cardinal rule of sentencing by failing to show any contrition or acceptance of responsibility for their conduct. Judge Ross specifically commented on this factor at sentencing, saying, "I never really heard any admission to any wrongdoing or any remorse at all throughout this process."

To be fair, the procedural posture of the Chrisleys' case at the time of sentencing presented a difficult conundrum for the Chrisleys and their lawyers. The clients were convicted at trial, but still maintain their innocence and intend to appeal and overturn that conviction. Therefore, at sentencing the clients can't accept responsibility and make any admissions in the same way they would after a guilty plea.

So what are the practice takeaways?

Despite the challenge that sentencing creates post-conviction at trial, it is imperative that the defendant acknowledge some wrongdoing, particularly in a case like the Chrisleys' where the government has evidence of monetary harm to victims.

Threading this needle without admitting guilt is a tricky path, but it can be done. A client's statements should focus on expressing regret for any harm they caused, even if the client believes the conduct is not criminal.

To offer an example from the Chrisley case, it was reported that Todd Chrisley filed bankruptcy on \$20 million in loans. Bankruptcy is perfectly legal, but it leaves creditors holding the bag. Here, that was a big bag. Todd Chrisley could have easily apologized for those losses while maintaining that they resulted from bad luck rather than criminality.

This can be difficult medicine for a client to swallow, and some clients are just unwilling to do it. This unwillingness almost always works to their detriment.

Some clients are exceedingly difficult to manage, and there is only so much a lawyer can

do. However, a lawyer must try to help clients prepare for the most unpleasant consequences of a criminal case from the outset. Lawyers must be upfront with clients about what can happen if the case is lost, or if they plea.

It helps to start talking to clients early about the things they can do to insulate themselves as much as possible from a terrible sentencing fate — remaining consistent at work, taking care of their family and continuing any community involvement from before the case began. This can help to get clients in the right mindset, and it builds a positive record for sentencing.

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[1] [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Mortgage\\_Fraud\\_FY21.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Mortgage_Fraud_FY21.pdf).