

# What's the right verdict for Beanie Babies billionaire?



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Today, I am going to ask you to pass judgment. What would you do to a Chicago businessman worth somewhere about \$2 billion, who illegally hid assets from the IRS in a Swiss bank account for years, earned more than \$24 million that he did not declare, and avoided paying more than \$5 million in taxes? The government referred to sentencing guidelines during his trial that suggested prison time of up to 57 months was appropriate punishment.

To the surprise of many, the judge sentenced the businessman to 2 years probation and 500 hours of community service. No prison time. The government was so infuriated that it appealed the judge's sentence, but even the U.S. Court of Appeals in Chicago affirmed the judge's decision on July 10, in the case of *United States of America v. H. Ty Warner*. Was this another case of the double standard in the law — that billionaires don't have to go to jail, but petty thieves do?

The lower court found that Warner's "private acts of kindness, generosity and benevolence" were "overwhelming". Warner was born in Chicago and grew up in a troubled family, according to the brief his lawyers filed in July 2014, defending his original sentencing. He worked "several menial jobs" to earn money for college, but ultimately dropped out of Kalamazoo College because he could not afford tuition,



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Ty Warner, creator of Beanie Babies toys, celebrates the 10th anniversary of the Beanie Babies toy line in 2003 at the American International Toy Fair in New York.

the brief said. To make ends meet, he worked as a busboy, bellman, and door-to-door salesman before finding a job with a toy company, according to his attorneys. Ultimately, he founded his own company, launched the Beanie Baby line and made a fortune.

His attorneys cited several examples of his acts of generosity, including one instance when he stopped to ask for directions from a woman who was raising money for a life-saving kidney procedure she needed. After getting directions from her, he returned an hour later and committed to give her \$20,000 for her treatment, the brief said. Over the years, Warner donated more than \$70 million in toys to the Children's Hunger Fund, a nonprofit that serves kids in orphanages and disaster-stricken areas, according to the judge's July 10 ruling upholding his sentencing. He also donated \$20 million to the Princess Diana memorial fund, funded a park in Westmont with \$13 million, and gave \$2 million for disaster relief

in Japan, among many other acts of generosity, the judge's ruling said.

In Warner's initial sentencing, the lower court judge remarked that he had never seen a defendant "demonstrate the level of humanity and concern for the welfare of others as has Mr. Warner." He noted that Warner had voluntarily pled guilty and paid an extraordinary \$53 million penalty. He tried to avail himself of the government's voluntary tax disclosure program before he knew he was under investigation, but the government refused because they had secretly started to investigate him already, court documents show. The lower court judge saw no purpose in incarcerating Warner, when the penalty he already paid should serve as adequate deterrence, and his contribution to society would be greater doing community service than sitting in a jail cell. The court of appeals agreed.

Did the court make the right decision?

*Richard A. Sugar, a practicing attorney, is a contributor to Pioneer Press.*