IN THE HIGH COURT OF FIJI

AT SUVA

[CRIMINAL JURISDICTION]

CRIMINAL CASE NO. HAF 002 OF 2026

BETWEEN	:	**MINISTRY OF FISHERIES**
AND	:	**XIAO YUAN HOU**
Counsel	:	**Mr A Takalaivuna for the State** **Accused in Person**
Date of Hearing	:	**2 October 2026**
Date of Sentence	:	**20 October 2026**

SENTENCE

[1] The accused, Xiao Yuan Hou, is charged with one count of Failure to Comply with Seasonal and Species Restriction, contrary to Regulation 4(1) of the *Offshore Fisheries Management Regulations 2014* ("the Regulations"). The particulars of the offence are that on 9 June 2026, at Suva in the Central Division, the accused failed to comply with the seasonal and species restriction by possessing 266.45 kg of restricted species identified under Schedule 2A of the Act, namely White Teatfish, Black Teatfish, and Prickly Redfish.

[2] The accused has pleaded guilty to the charge. On 6 October 2026, he appeared before this Court and admitted the Summary of Facts read to him in open Court with the assistance of an interpreter. He is convicted on his own plea and now appears for sentence.

[3] The facts of the offence, as admitted by the accused, are as follows. On 9 June 2026, the Fisheries Enforcement Officers conducted compliance checks at sea

cucumber processing facilities in the Suva–Nausori area in relation to the seasonal and species restrictions in force from 1 February to 31 July 2026. At approximately 11.45am, the officers entered the warehouse of Huayi Bros Company (Fiji) Pte Ltd at Lot 1 Foster Road, Walu Bay, Suva, where they were met by the accused and three other Chinese nationals. In the first storage room, the officers found more than 20 sacks each weighing approximately 30 kg each, of lawful bêche-de-mer species, namely stonefish, tigerfish, lollyfish, curryfish, greenfish and sandfish. In a second storage room, the officers discovered 11 sacks concealed in a corner. Nine of those sacks contained a mixture of White Teatfish (*Holothuria fuscogilva*) and Black Teatfish (*Holothuria whitmaei*), and the remaining two sacks contained Prickly Redfish (*Thelenota ananas*). The restricted species weighed 266.45 kg in total. The sacks were photographed, seized and secured at the Offshore Fisheries Management Division.

[4] On 2 July 2026, the accused was interviewed under caution with the assistance of a recognised translator of his own choice. He admitted knowing that White Teatfish, Black Teatfish and Prickly Redfish were restricted species. He confirmed that the banned species were found on his premises and stated that three or four local fishermen had brought them to him fully dried. He purchased them for approximately $3,000 and claimed that they were intended for personal consumption. On 8 July 2026, an Offshore Fisheries Fixed Penalty Notice was issued to the accused for failure to comply with the seasonal and species restriction contrary to Regulation 4(1) of the Regulations. The matter is now before the Court, where the penalty falls to be determined by the Court.

[5] The offence is one to which an Offshore Fisheries Fixed Penalty Notice applies. Under Schedule 11 of the Regulations, the penalty for this offence when committed by a natural person is a fine of $10,000.

[6] I turn to the aggravating factors. First, the quantity of restricted species involved was substantial. This was not a small quantity: 266.45 kg of White Teatfish, Black Teatfish and Prickly Redfish represents a significant volume of protected species, and the accused's claim that the species were intended for personal consumption does not excuse the possession of such a large quantity of restricted species. Secondly, the restricted species were found in a second storage room, concealed in a corner, and separated from the lawful species stored in the first storage room. Thirdly, the accused knew that the species were restricted, as he admitted during his caution interview. Fourthly, the offence was committed during the closed season which ran from 1 February to 31 July 2026. The seasonal and species restrictions exist to conserve and manage Fiji's sea cucumber stocks. A breach of the closed season, and of the species restriction, undermines the Fiji's fisheries management and conservation regime.

[7] In mitigation, the accused pleaded guilty and has spared the State the expense and uncertainty of a trial. The State confirms that he has no previous convictions for similar offences and has no prior record with the Fisheries Department. He admitted the Summary of Facts without qualification. He is 55 years of age. By a letter dated 5 October 2026, he undertook to pay each monthly instalment on time until the full amount of the fine is paid.

[8] I have considered the Summary of Facts, the State's sentencing submissions, and the plea in mitigation. The State has referred the Court to its discretion under section 15(1)(f) of the *Sentencing and Penalties Act 2009* to fine the offender with or without recording a conviction (*Botaki v State [2012] FJHC 1250; HAA015.2012*). Having regard to the seriousness of the offending, particularly the substantial quantity of restricted species involved, I consider that a conviction must be recorded. The fine of $10,000 is the maximum penalty for this offence, and the aggravating features of this case justify the

imposition of maximum penalty. Accordingly, I fine the accused the sum of $10,000.

[9] I now deal with the accused's application to pay the fine by instalments. Section 34 of the *Sentencing and Penalties Act 2009* provides that if a court decides to fine an offender, it may order that the fine be paid by instalments. The Court also has discretion to allow the offender time to pay and to vary such an order where the circumstances of the offender have changed so as to affect his ability to comply, where the offender has indicated a commitment to paying the fine on the varied terms, and where it is reasonable and just to do so (ss 35–36). In *Freesoul Real Estate Development (Fiji) Pte Limited v State*, Criminal Misc No. HAM 140 of 2022; Criminal Case No. HAC 282 of 2021 (order of 16 June 2022), this Court granted an instalment order under section 34 where the offender had shown a commitment to paying the fine in full and where the State suffered no prejudice. The same considerations apply here.

[10] The accused, by a letter dated 5 October 2026, requested that the fine of $10,000 be paid in five monthly instalments of $2,000. The State does not object to the fine being paid by instalments. I am satisfied that the accused has shown a commitment to paying the fine in full, that the State will suffer no prejudice if the order is granted. I accordingly grant an instalment order pursuant to section 34 of the *Sentencing and Penalties Act 2009*. The accused is to pay the fine of $10,000 to the Registrar of this Court at Suva in five monthly instalments of $2,000.00 each, in accordance with the following schedule. Each instalment is to be paid on or before the end of each month.

Instalment	Amount	Due Date
First instalment	$2,000.00	On or before 30 October 2026
Second instalment	$2,000.00	On or before 30 November 2026
Third instalment	$2,000.00	On or before 31 December 2026

Fourth instalment	$2,000.00	On or before 29 January 2027
Fifth instalment	$2,000.00	On or before 26 February 2027
Total	**$10,000.00**	

[11] In the event of any default in payment of any instalment, the matter may be relisted before this Court, and the accused may be called upon, on notice, to show cause why such further orders as may be appropriate in law should not be made.

[12] Nothing in this order prevents the accused from applying, pursuant to sections 35 and 36 of the *Sentencing and Penalties Act 2009*, for a variation of the instalment order if his circumstances change so as to affect his ability to comply.

[13] I further order that the seized items, being 266.45 kg of restricted species recovered from the second storage room of the warehouse at Lot 1 Foster Road, Walu Bay, Suva, namely White Teatfish, Black Teatfish, and Prickly Redfish, which are presently secured at the Offshore Fisheries Management Division, be destroyed by the Department of Fisheries in accordance with law. A Fisheries Officer is to certify in writing to the Registrar of this Court that the destruction has been carried out, and such certificate is to be placed on the Court file.

HIGH COURT OF FIJI SUVA

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Hon. Mr Justice Daniel Goundar

Solicitors:

Office of the Director of Public Prosecutions for the State

Accused in Person