

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION
VENUE: SAN FRANCISCO

FILED
09 MAY -5 PM 2:59
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
v.

BIN LIN HUANG



CR 09

0473

DEFENDANT.

JSW

INDICTMENT

18 U.S.C. Sec. 1001-- False Statements

18 U.S.C. Secs. 545 & 2-- Smuggling and Aiding and
Abetting Forfeiture Allegation

A true bill.

Angel Hernandez
Foreman

Filed in open court this 5th day of
MAY 2009
Wing Ho
Clerk

Bail, \$ NO BAIL ARREST WARRANT

CR

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING

OFFENSE CHARGED

Counts 1, 3 and 4: 18 U.S.C. Sec. 1001 -- False Statements
Count 2: 18 U.S.C. Secs. 545 & 2 -- Smuggling and Aiding and Abetting Forfeiture Allegation
Petty
Minor
Misdemeanor
Felony

PENALTY:

Count 1, 3 & 4: 5 years imprisonment, \$250,000 fine, 3 years supervised release; \$100 special assessment
Count 2: 20 years imprisonment, \$250,000 fine, 3 years supervised release, \$100 special assessment

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
U.S. Fish & Wildlife

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

Joseph P. Russoniello

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)
Stacey Geis

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

United States v. Bai Lin Huang

DISTRICT COURT NUMBER

09 - 0473

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
2) Is a Fugitive
3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
5) On another conviction
6) Awaiting trial on other charges
Fed'l State
If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No
If "Yes" give date filed

DATE OF ARREST
Month/Day/Year

Or... if Arresting Agency & Warrant were not
Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY
Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: No bail

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

1 JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

FILED
MAY -5 PM 3:00
U.S. DISTRICT COURT
SAN FRANCISCO, CALIF.



8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

JSW

11 UNITED STATES OF AMERICA,
12 Plaintiff,

No.: CR
VIOLATIONS:

0473

13 v.

18 U.S.C. § 1001(a) – False Statements
(Three Counts);
18 U.S.C. §§ 545 and 2 – Smuggling and
Aiding and Abetting;
Forfeiture Allegation

15 BAI LIN HUANG,
16 Defendant.

SAN FRANCISCO VENUE

18 INDICTMENT

19 The Grand Jury charges:

20 **THE PROTECTION OF ENDANGERED FISH**

21 1. At all times relevant to this Indictment, the United States Department of the
22 Interior, Fish and Wildlife Service (hereinafter “USFWS”), was designated by Congress
23 to enforce the Endangered Species Act. The Endangered Species Act prohibits the
24 importation of species listed within the Act as being threatened or endangered; that is,
25 threatened with extinction or in danger of becoming extinct, pursuant to Title 16, United
26 States Code, Section 1538(a)(1)(A). At all times relevant to this Indictment, the Asian
27 Arowana Fish (Scleropages formosus) was listed as an endangered species under the
28



12

1 Endangered Species Act, pursuant to Title 50, Code of Federal Regulations, Section
2 17.11.

3 2. At all times relevant to this Indictment, the United States government was a
4 signatory to an international treaty known as the Convention on International Trade in
5 Endangered Species of Wild Fauna and Flora (CITES), T.I.A.S. 8249, 27 U.S.T. 1087.

6 3. Under CITES, species were protected according to a classification system known
7 as "appendices." Wildlife species listed in Appendix I of CITES are those threatened
8 with extinction, trade in which must be subject to particularly strict regulation and only
9 authorized in exceptional circumstances. 27 U.S.T. 1092.

10 4. The USFWS is designated by Congress pursuant to the Endangered Species Act as
11 the CITES enforcement authority within the United States. Title 16, United States Code,
12 Section 1537a. The USFWS publishes regulations to implement CITES. All species
13 protected by CITES are listed in USFWS regulations. Title 50, Code of Federal
14 Regulations, Section 23.23. The Endangered Species Act implements the provisions of
15 CITES by making it unlawful "to trade in any specimen contrary to the provisions of
16 [CITES], or to possess any specimen traded contrary to the provisions of [CITES]." Title
17 16, United States Code, Section 1538(c)(1). "Trade", in this context, includes
18 importation into the United States.

19 5. The nations which are members of CITES have agreed to monitor and regulate
20 trade in Appendix I species by prohibiting their international trade unless certain permits
21 are first obtained and presented. In the United States, regulations that control the
22 importation of species listed within CITES are contained in Title 50 of the Code of
23 Federal Regulations. For species listed on Appendix I, the regulations require a "United
24 States import permit" and a "valid foreign export permit" issued by the specimen's
25 country of origin, or a "valid foreign re-export certificate" issued by the country of re-
26 export, be obtained prior to importing any such wildlife into the United States. Title 50
27 Code of Federal Regulations, Section 23.12(a)(1)(i).

28 6. At all times relevant to this Indictment, the Asian Arowana fish (Scleropages

1 formosus) was listed on Appendix I of CITES.

2 7. In addition to the requirements of CITES and the Endangered Species Act, the
3 United States Customs Service (hereinafter "USCS") is designated by Congress to
4 enforce all federal laws involving the importation of any merchandise (including wildlife)
5 and the smuggling of any merchandise (including wildlife) into the United States.
6 Federal Law requires that all wildlife, including endangered fish, be declared to the USCS
7 at the port of first arrival in the United States. Title 19, Code of Federal Regulations,
8 Section 148.11, subject to the penalties of Title 19, U.S.C. Section 1497. Federal law
9 also requires that, upon the importation of any wildlife, including fish, importers or their
10 agents file with the USFWS a completed Declaration for Importation or Exportation of
11 Fish or Wildlife. Title 50, Code of Federal Regulations, Section 14.61. Federal law also
12 requires that a USFWS or USCS officer clear all wildlife imported into the United States,
13 and that the importer or his agent make available to the officer the wildlife being
14 imported, as well as all required permits, licenses or other documents. Title 50, Code of
15 Federal Regulations, Section 14.52.

16 **FACTUAL BACKGROUND**

17 8. Over the course of several years and continuing to at least 2005, defendant BAI
18 LIN HUANG brought into the United States Asian arowana from China and other parts
19 of the Pacific Rim. Neither a valid "foreign export permit" or valid "import permit" from
20 the USFWS was issued for these imports. Defendant HUANG would then sell these fish
21 to buyers in the United States. Asian arowana can be sold in the black market from
22 \$1,000 to \$10,000 per fish depending on the size and color of the fish, among other
23 things.

24 **CRIMINAL VIOLATIONS**

25 COUNT ONE (18 U.S.C. § 1001(a)(2) – False Statement)

26 9. The allegations set forth in paragraphs 1-8 above are realleged and incorporated
27 herein by reference.

28 10. On or about February 3, 2005, in the Northern District of California, in a matter

1 within the jurisdiction of the Executive Branch of the Government of the United States,
2 the defendant,

3 BAI LIN HUANG,

4 did knowingly and willfully make and cause to be made a materially false, fictitious and
5 fraudulent statement and representation, namely, stating to a U.S. Fish & Wildlife
6 inspector that a box of fish in a recent shipment were all Australian arowanas, when in
7 fact, as the defendant knew at all relevant times, the box contained fish other than
8 Australian arowanas, in violation of Title 18, United States Code, Sections 1001(a)(2).

9 COUNT TWO: (18 U.S.C. §§ 545 and 2 – Smuggling and Aiding and Abetting)

10 11. The allegations contained in paragraphs 1 through 8 of this Indictment are
11 realleged as though fully set forth herein.

12 12. On or about April 8, 2005, in the Northern District of California, and elsewhere,
13 the defendant,

14 BAI LIN HUANG,

15 did knowingly import and cause to be imported into the United States merchandise
16 contrary to law, and did receive, conceal, buy, sell and facilitate the transportation,
17 concealment, and sale of such merchandise after importation, namely, twenty-six (26)
18 live, juvenile Asian arowanas, knowing the same to have been imported and brought into
19 the United States contrary to law, in that said merchandise was traded contrary to CITES,
20 was imported in violation of the Endangered Species Act, and was not declared to any
21 official of the United States government upon its entry into the United States, in violation
22 of Title 16, United States Code, Sections 1538(c)(1) and 1538(a)(1); Title 19, Code of
23 Federal Regulations, Section 148.11 and Title 50, Code of Federal Regulations, Sections
24 14.52 and 14.61.

25 All in violation of Title 18, United States Code, Sections 545 and 2.

26 COUNT THREE (18 U.S.C. § 1001(a)(3) – False Statement)

27 13. The allegations set forth in paragraphs 1-8 above are realleged an incorporated
28 herein by reference.

1 14. On or about April 8, 2005, in the Northern District of California, in a matter within
2 the jurisdiction of the Executive Branch of the Government of the United States, the
3 defendant,

4 BAI LIN HUANG,

5 did knowingly and willfully make and cause to be made and use and cause to be used a
6 materially false, fictitious, and fraudulent writing and document, namely, a Declaration
7 for Importation or Exportation of Fish or Wildlife (Form 3-177) to the United States Fish
8 & Wildlife Service that stated he was importing Koi fish into the United States, when in
9 fact, as the defendant knew at all relevant times, he was importing twenty-six (26) live,
10 juvenile endangered Asian arowanas, in violation of Title 18, United States Code, Section
11 1001(a)(3).

12 COUNT FOUR (18 U.S.C. § 1001(a)(3) – False Statement)

13 15. The allegations set forth in paragraphs 1-8 above are realleged and incorporated
14 herein by reference.

15 16. On or about May 6, 2005, in the Northern District of California, in a matter within
16 the jurisdiction of the Executive Branch of the Government of the United States, the
17 defendant,

18 BAI LIN HUANG,

19 did knowingly and willfully make and cause to be made and use and cause to be used a
20 materially false, fictitious, and fraudulent writing and document, namely, a letter dated
21 April 12, 2005, from a Chinese businessman whose name is known to the grand jury,
22 presented by BAI LIN HUANG to the U.S. Fish & Wildlife Service stating that a
23 shipment of endangered Asian arowanas was mistakenly sent to the defendant, when, in
24 fact, the defendant knew the shipment was not mistakenly sent to him, in violation of
25 Title 18, United States Code, Section 1001(a)(3).

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1 FORFEITURE ALLEGATION: (18 U.S.C. § 545 – Forfeiture)

2 17. The allegations contained in paragraphs 1 through 8 and Count Two of this
3 Indictment are realleged and by this reference fully incorporated herein for the purpose of
4 alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 545.

5 18. Upon a conviction of the offense alleged in Count Two above, the defendant,
6
7 **BAI LIN HUANG,**
8 shall forfeit to the United States all fish or wildlife introduced into the United States in
9 violation of Title 18 U.S.C. § 545, or the value thereof, including but not limited to:

- 10
11 a. Any and all Asian Arowanas found and/or seized.


11 DATED: May ^{4⁵}_{an}, 2009

A TRUE BILL.

12
13 
14 FOREPERSON

15 JOSEPH P. RUSSONIELLO
16 United States Attorney

17 
18 BRIAN STRETCH
19 Chief, Criminal Division

20 (Approved as to form: 
21 AUSA GEIS