

1 Defendant argued that the indictment must be dismissed because it is fatally
2 defective for two reasons. First, because from the language in the indictment the
3 grand jury could have returned it either on the ground that defendant "knowingly
4 transported" women for the purposes of prostitution or aided and abetted, counseled,
5 commanded, induced, or procured them to travel to the Commonwealth to engage in
6 prostitution. As it is not a violation of federal law to merely counsel, command, or
7 induce a person to travel in interstate or foreign commerce for purposes of
8 prostitution, Twitchell v. United States, 313 F.2d 425, 428 (9th Cir. 1963), after
9 remand, 330 F.2d 759 (9th Cir. 1964), defendant claims it is not clear if the grand jury
10 returned the indictment on a proper ground. Second, defendant argues that the
11 indictment must be dismissed because it fails to state that prostitution is illegal under
12 Commonwealth law, and that that is an essential element of the crime.

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17 As to the first argument, the Ninth Circuit has "approved the use of [Title 18
18 U.S.C.] § 2 together with [18 U.S.C.] § 2421." See United States v. Green, 554 F.2d
19 372, 376 (9th Cir. 1977) (citing Brown v. United States, 314 F.2d 293 (9th Cir. 1963)).
20 Section 2 is merely definitional and itself prescribes no punishment; it is § 2421 which
21 sets out the elements of the crime and what plaintiff must prove at trial. This ground
22 for dismissal was not persuasive.
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25 Defendant next argued that an allegation of violation of Commonwealth law is
26 an essential element of the crime defined in 18 U.S.C. § 2421. A reading of § 2421

1 shows that this is not true.¹ This ground for dismissal was also unpersuasive.

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3 FOR THE FOREGOING REASONS, defendant's motion to dismiss the
4 indictment was DENIED

5 IT WAS SO ORDERED on March 20, 1998.

6 DATED this 30TH day of March, 1998.

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10 ALEX R. MUNSON
11 Judge

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26 ¹ Such an element may be required for prosecutions under 18 U.S.C. § 1952, which defines "unlawful activity" to include violation of state or federal laws.