

FILED
Clerk
District Court

1998

For The Northern Mariana Islands

By FMC
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,	)	Criminal No. 98-00012
	)	
Plaintiff	)	
	)	NOTICE OF ORDER
v.	)	DENYING MOTION TO
	)	DISMISS INDICTMENT
ZHANG YI,	)	
	)	
Defendant	)	
_____	)	

THIS MATTER came before the court on Friday, March 20, 1998, for hearing of defendant's motion to dismiss the indictment. Plaintiff appeared by and through Assistant United States Attorney David T. Wood; defendant appeared personally and by and through his attorney, Pamela Brown (appearing on Mr. Long's behalf). Ms. Agnes Ng translated for defendant.

THE COURT, having considered the written and oral arguments of the parties, DENIED the motion from the bench, and indicated that this written decision would follow.

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.

13 As to the first argument, the Ninth Circuit has "approved the use of [Title 18
14 U.S.C.] § 2 together with [18 U.S.C.] § 2421." See United States v. Green, 554 F.2d
15 372, 376 (9th Cir. 1977) (citing Brown v. United States, 314 F.2d 293 (9th Cir. 1963).
16 Section 2 is merely definitional and itself prescribes no punishment; it is § 2421 which
17 sets out the elements of the crime and what plaintiff must prove at trial. This ground
18 for dismissal was not persuasive.

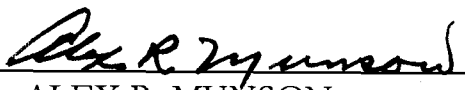
19 Defendant next argued that an allegation of violation of Commonwealth law is
20 an essential element of the crime defined in 18 U.S.C. § 2421. A reading of § 2421
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1 shows that this is not true.¹ This ground for dismissal was also unpersuasive.

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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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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.