

No. 00-50773 **FOR PUBLICATION**
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

No, 00-50063

Appeals from the United States District Court
for the Southern District of California
Barry T. Moskowitz, District Judge, Presiding

Argued and Submitted
October 2, 2001--Pasadena, California

Filed January 18, 2002

Before: Diarmuid F. O'Scannlain and Richard A. Paez,
Circuit Judges, and Samuel P. King,* District Judge.

Opinion by Judge King

*The Honorable Samuel P. King, Senior United States District Judge
for the District of Hawaii, sitting by designation.

COUNSEL

Robert L. Swain, San Diego, California, Steven F. Huba-
check Federal Defenders of San Diego, Inc., San Diego, Cali-
fornia, Brian P. Funk, San Diego, California, Gregory D.
Obenauer, San Diego, California, for the defendants-
appellants.

Brian M. Pearce -0t1istant United States Attorney, San
Diego, California, for the plaintiff-appellee.

OPINION

KING, District Judge:

Li Xiang Teng ("Teng"), Chen Biao ("Biao"), Tu Yu Piao
("Piao"), and Hui Lin ("Lin") appeal from their jury trial con-
victions for one count of conspiring ttnT o, ecti plofromcon-
v

§ 1324(a)(2)(B)(ii), and six counts of attempting to bring aliens into the United States for financial gain in violation of 8 U.S.C. § 1324(a)(2)(B)(ii) and 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. §§ 1291, 1294(1), and affirm as

aliens into the United States in violation of 18 U.S.C. § 371

[2] Appellants argue that the government violated the statute because the immigration benefits received by the witnesses were "things of value" given in exchange for their testimony. The Ninth Circuit in United States v. Smith

the government's use of incentives to elicit relevant testimony, see United States v. Flores

[5] The statute provides as follows:

which to establish venue in cases where venue has not been established under the first clause of the statute. **2**

We find that the government established venue under the first clause of 18 U.S.C. § 3238 because Appellants were first brought into the Southern District of California. Appellants rely on two cases with dissimilar facts to support their

brought" into a different district. Id. He was then taken to the

Id.

after he appeared there in compliance with a summons issued after the indictment was filed. Hilger, 867 F.2d at 567-68.