

FOR PUBLICATION
UNITED STATES COURT OF APPEALS

Saipan to Guam; and that Tsai was the only other passenger who had taken both flights. The INS agents concluded that Tsai had been escorting He and Chen in their effort to enter the United States illegally.

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mandatory minimum provision of § 1324(a)(2). Tsai now appeals his conviction and sentence.

II

Tsai contends that the search of his valise at the Honolulu airport was not within the category of "routine " border searches for which the Fourth Amendment requires neither individualized suspicion nor a warrant. See United States v. Montoya de Hernandez

fore may be reasonable without a showing of individualized suspicion, e.g., United States v. Vance, 62 F.3d 1152, 1156 (9th Cir. 1995). In neither case does the subjective motivation

[6] We therefore conclude that the search of Tsai's valise was neither unreasonable nor beyond the INS's statutory authority. The district court thus properly denied the motion to suppress.

III

Tsai also challenges the sufficiency of the evidence with respect to the element of private financial gain. Because Tsai was charged as an aide ([6]xfttuter aide18 U.S.C. § 2, to tai) Tj T* -09028 Tc 09028 Twgovernment cld make c
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The government's evidence on Counts I (Yun) and II (Lim and Tan) was less strong, as none of the three aliens named in those counts testified. However, the fact that all three trips followed almost exactly the same pattern gives rise to an inference that those aliens were also paying for their transport and escort (whether they paid Tsai, Huang, or another confed-

Thus, Tsai's conviction on three counts triggered the mandatory minimum for a third offense.⁷

Tsai asserts that the Sentencing Guidelines' provisions on grouping of related offenses should apply to his case because the government alleged a "common scheme" of alien smug-a-use1999),' prg-a-use

The statute under which Tsai was convicted explicitly states that its sentencing provisions, which include both maxima and minima, apply "for each alien in respect to whom a violation of this paragraph occurs." 8 U.S.C. § 1324(a)(2) (Supp. II 1996). Tsai was convicted under subparagraph

BERZON, Circuit Judge, Concurring:

Although I agree with Parts I, III, IV and V of the majority's opinion and with the result reached, I write separately with regard to Part II.

As to Part II, I would also conclude that the district court

United States, 267 U.S. 132, 154 (1977). A search which happens to be at the border but is not motivated by either of these two "national self protection" interests (id.) may not be "rou-