

NOT FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CRIM. NO. 2003-0029
)	
MALCOLM L. HUGHES,)	
)	
Defendant)	
_____)	

ORDER

THIS MATTER is before the Court on Defendant Hughes’ Motion to Dismiss - Lack of Jurisdiction, docket item # 22. Defendant asks the Court to dismiss the one-count Indictment because the Court lacks federal jurisdiction over this matter based on the unconstitutionality of 18 U.S.C. § 2252 (a) (4) (B).

Upon consideration of the matter, the Court finds that in accordance with the Third Circuit holdings in U.S. v. Rodia, 194 F.3d 465 (3d Cir. 1999) and U.S. v. Galo, 239 F.3d 572 (3d Cir. 2001), 18 U.S.C. § 2252 (a) (4) (B) is constitutional, both on its face and as applied to the facts of this case. Accordingly, it is hereby

ORDERED that Defendant’s Motion to Dismiss is **DENIED**.

ENTER:

DATED: November 18, 2003

RAYMOND L. FINCH
CHIEF U.S. DISTRICT JUDGE

ATTEST:

Wilfredo F. Morales
CLERK OF THE COURT

By: _____
Deputy Clerk

cc: Honorable Jeffrey L. Resnick, U.S. Magistrate Judge
St. Clair Theodore, AUSA
Kirsten Getty Downs, Asst. Federal Public Defender