Racket to fake entry to and exit from the US uncovered

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 CALIFORNIA, United States—Julian has been a green card holder for many years. He has always been able to enter and depart from the US while maintaining a business establishment in Manila. Unlike most green card holders, Julian spends only one or two months in the US every year and the rest of his time is spent in Manila to run his business.

Allan, on the other hand, is a holder of a "tourist" visa. He has been using his visa to enter the US over the years. During some of his visits, he exceeded his authorized stay in the US. He managed to overstay in the US and get away with it. He did this by having his passport stamped with a backdated arrival date in the Philippines to show that he did not overstay in the US. He was able to do this a couple of times—until his latest trip.

In their last trips to the US, both Julian and Allan's past deeds finally caught up with them.

When they tried to enter the US, they were both put in secondary inspection. Further examination revealed that the stamps on their passports, regarding their departure from the US and arrival in the Philippines, did not really match their actual departure from the US. The Customs and Border Protection inspector was able to obtain proof of their actual dates of departure.

Julian was put in removal proceedings for abandonment of his green card; while Allan's visitor's visa was cancelled at the airport. Allan was put on an expedited removal and was sent back to the Philippines on the same day that he arrived in the US.

Backdating in Manila

For non-immigrant visa holders, the nature of the visa will determine the limitation of stay in the US. The visitor or tourist (B2) visa holder must remain in the US only within their authorized period of stay, which is usually six months. Those who overstay are in violation of the law and will have their visas revoked.

The same rule applies to green card holders. As green card holders, the expectation is for them to work and reside in the US on a permanent basis. This means that they are supposed to stay in the US longer than their stay outside the US.

Considering that the periods of authorized stay in the US are limited for visitor visas, some have been able to overstay without being caught by exhibiting proof of departures or arrivals in the US that are forged. One of the easiest means of showing these forged dates is through the arrival date stamp in our passports. As we arrive in the Philippines from abroad, Philippine immigration authorities stamp our passport with an arrival date. Oftentimes, through "connections" or just through plain fake stamps, the arrival dates in the passport is manipulated to reflect what is commonly called "backdating." Thus, a person may have actually arrived in the Philippines on December 1 but through "backdating" the stamp in his passport can show that he arrived in the Philippines on November 1, or any other date that he so desires.

Entry-exit stamps

Before 9/11, the former US Immigration and Naturalization Service's (INS) entry and exit system was not clearly defined. The exit of non-immigrants from the US was usually accounted for by the submission of the departure form that is submitted to the airline one boarded. There is no immigration check and there is no US departure stamp on the passport.

When the US Department of Homeland Security was created to take over the former INS, a more systematic method of tracking entry and exit system was put in place. The US Visitor and Immigrant Status Indicator Technology (US-Visit) program controls and monitors the entry and exit of foreign visitors by storing and processing biometric and biographic information.

Carriers are also required by law to furnish manifests of arriving and departing passengers to the Customs and Border Protection (CBP). A system called electronic Advance Passenger Information System (EAPIS) is a web-based interface used by commercial carriers to provide the required information to US CBP electronically. Also, even before the plane lands in the US, the CBP already has a manifest of the passengers and crew who are arriving.

Possible alibis

Proof of travel in and outside the US is now available through various databases. The immigration stamps of arrival and departure from the Philippines on the passport are no longer the only evidence used to verify actual physical presence of visa holders.

Backdating is unlawful. It has been used in the past and some travelers were able to get away with it. But one should be aware that this old unlawful practice is no longer effective in circumventing the law. It will have its corresponding consequences as it did to Julian and Allan.

Interestingly, in the Supreme Court decision of the Vizconde case, the defense of alibi was given weight. The accused was supposedly in the US at the time the crime occurred. Among others, the passport of the accused with the departure stamp of March 9, 1991 and the return stamp of October 27, 1992 was submitted and given weight to support the alibi defense.

Visa holders, whether immigrants or non-immigrants, must remain truthful at all times regarding their travel dates. To avoid harsh consequences of removal or cancellation of visas, it will be best to use these visas according to the purpose they were issued. If staying in the US for a lengthy

period of time is not possible for green card holders, maybe it will be best to obtain a non-immigrant visitor visa instead of being tempted to "backdate" and forge one's actual physical presence.