



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 20530

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31 Hopkins Plaza, Room 1600  
Baltimore, MD 21201**

Immigrant & Refugee Appellate Center | [www.irac.net](http://www.irac.net)

**Name: TUNIS, ABDULLAH A**

**A 087-335-805**

**Date of this notice: 2/20/2014**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Manuel, Elise

yungc  
Userteam: Docket

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Falls Church, Virginia 20530

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File: A087 335 805 – Baltimore, MD

Date:

FEB 20 2014

In re: ABDULLAH A. TUNIS

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Veronica N. Puvak  
Assistant Chief Counsel

CHARGE:

Notice: Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] -  
Immigrant - no valid immigrant visa or entry document

APPLICATION: Temporary Protected Status

The respondent, a native and citizen of Liberia, has filed an appeal from the Immigration Judge's decision dated May 8, 2012, ordering the respondent's removal from the United States. The respondent has filed an appeal brief. In response, the Department of Homeland Security (DHS) has moved for summary affirmance. We will remand the case to the Immigration Judge for further proceedings.

We review Immigration Judges' findings of fact for clear error, but questions of law, discretion, and judgment, and all other issues in appeals, de novo. 8 C.F.R. § 1003.1(d)(3).

The respondent argues on appeal that the Immigration Judge's finding of removability was erroneous because the Immigration Judge placed the burden of proving removability on him rather than on the DHS and based her finding solely on the contents of a Form I-213, Record of Deportable/Inadmissible Alien, despite his objections. The respondent also argues that the Immigration Judge should have directed the DHS to file a copy of his administrative record in order to ascertain whether he in fact was previously granted Temporary Protected Status (TPS). See Respondent's Appeal Brief;<sup>1</sup> Respondent's Notice of Appeal.

We affirm the portion of the Immigration Judge's decision finding that the DHS met its burden to establish the respondent's removability by clear and convincing evidence (I.J. at 1-2). See 8 C.F.R. § 1240.8(a); see also *Bilokumsky v. Tod*, 263 U.S. 149 (1923). We are not persuaded by the respondent's appellate arguments pertaining to this portion of the Immigration Judge's decision. First, the record shows that the Immigration Judge correctly placed the burden

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<sup>1</sup> We have not made references to specific pages of the respondent's appeal brief because its pages were not numbered.

of establishing removability on the DHS. Second, the Immigration Judge's reliance on the information contained in the respondent's Form I-213 to determine whether the DHS met its burden of proof to establish the respondent's removability was appropriate, absent any indications that that form contained any information that was incorrect or was obtained by coercion, duress, or improper action. See *Matter of Ponce-Hernandez*, 22 I&N Dec. 784, 785 (BIA 1999); *Matter of Barcenas*, 19 I&N Dec. 609, 611 (BIA 1988); *Matter of Garcia*, 17 I&N Dec. 319, 321 (BIA 1980). Third, the Immigration Judge did not base her finding of removability solely on the contents of the Form I-213, but also on "the explanation provided by the [r]espondent" (I.J. at 2). Specifically, the respondent acknowledged (1) that he was paroled into the United States in 1997 and (2) that his parole was eventually terminated.<sup>2</sup> As such, the respondent is removable from the United States pursuant to section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by the Act.

We will remand this case, however, as the record of proceedings does not demonstrate that the Immigration Judge adequately addressed the respondent's claim that he is eligible for TPS and his apparent efforts to renew a prior TPS application before the Immigration Judge while in removal proceedings. On remand, the Immigration Judge should instruct the DHS to submit the administrative record maintained by the United States Citizenship and Immigration Services (USCIS) in this case, including the respondent's May 12, 2010, application to re-register for TPS, the USCIS's October 14, 2010, decision denying that application, and any prior applications, or a certification that no such prior applications appeared in the USCIS's records. See *Matter of Henriquez-Rivera*, 25 I&N Dec. 575 (BIA 2011); *Matter of Figueroa*, 25 I&N Dec. 596 (BIA 2011). The Immigration Judge should then afford the respondent an opportunity to renew his TPS application and should allow both parties to submit new, pertinent evidence. See *Matter of Figueroa*, *supra* (holding that when an application for TPS is denied and is renewed in removal proceedings, an Immigration Judge may consider any material and relevant evidence, regardless of whether the evidence was previously considered in proceedings before the USCIS). By issuing this remand we intimate no opinion as to the ultimate outcome of this case.

Accordingly, the following order shall be entered.

ORDER: The case is remanded to the Immigration Judge for further proceedings consistent with the foregoing and for the entry of a new decision.

  
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FOR THE BOARD

<sup>2</sup> At the hearing, the respondent admitted that he was paroled into the United States in 1997 and that his parole expired in 1999 (Tr. at 4-5). On appeal, he again concedes that he was paroled in 1997, but alleges that his parole was not terminated until 2010.

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
BALTIMORE, MARYLAND

File: A087-335-805

May 8, 2012

In the Matter of

ABDULLAH A. TUNIS

RESPONDENT

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)  
)  
)

IN REMOVAL PROCEEDINGS

CHARGES:

APPLICATIONS:

ON BEHALF OF RESPONDENT: PRO SE

ON BEHALF OF DHS: VERONICA N. PUVAK, ESQUIRE

ORAL DECISION OF THE IMMIGRATION JUDGE

The Respondent was issued a Notice to Appear on April 5, 2011. In pleadings taken on May 19, 2011, the Respondent admitted allegations one through three. He denied allegation four and the charge of removability. The Respondent suggested that he had been paroled into the United States, then had TPS for Liberians and then lost the documentation.

DHS submitted evidence which was admitted at Exhibit 2

which is the I-213. According to that evidence, however, the Respondent did not end up having a reregistration for TPS as was required for Liberians.

According to the I-213, as the Respondent did not have temporary protective status, his application to reregister for TPS, which was filed on May 12, 2010, was denied on October 14, 2010.

Accordingly, based on the I-213 and considering the explanation provided by the Respondent, the Court does find that the Respondent's TPS was denied and his parole terminated and that he is now, therefore, subject to removal under INA Section 212(a)(7)(A)(i).

Accordingly, the Court does find that allegation four is sustained and the Court does find, also, that the charge of removal pursuant to INA Section 212(a)(7)(A)(i)(I) is also sustained.

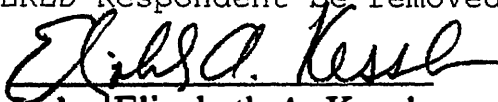
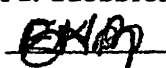
The Respondent is removable by clear and convincing evidence. The Respondent does not appear to be eligible for any relief from removal today. Liberia has been designated as the country for removal.

Specifically, despite the Respondent's long time in the United States, he does not appear to be eligible for nonpermanent resident cancellation of removal and no Immigration petitions have been filed that he would be able currently to use to adjust his status and he does not currently have a fear of

persecution or torture in Liberia. The Respondent has not requested voluntary departure.

ORDER

Accordingly, IT IS ORDERED Respondent be removed from the United States to Liberia.

  
Judge Elizabeth A. Kessler  
w/o IJ review 

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ELIZABETH A. KESSLER  
Immigration Judge

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CERTIFICATE PAGE

I hereby certify that the attached proceeding before JUDGE  
ELIZABETH A. KESSLER, in the matter of:

ABDULLAH A. TUNIS

A087-335-805

BALTIMORE, MARYLAND

is an accurate, verbatim transcript of the recording as provided  
by the Executive Office for Immigration Review and that this is  
the original transcript thereof for the file of the Executive  
Office for Immigration Review.

Sheila Hughes

SHEILA HUGHES (Transcriber)

YORK STENOGRAPHIC SERVICES, Inc.

July 23, 2012

(Completion Date)

SIH/jma