

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 092/06

Principal facts

Personal details

1. Mr X is a male aged 53 years from the Peoples' Republic of China (PRC) and is of Korean ethnicity. He has no contact with his wife and two children, who are residing in the PRC.

Detention history

2. The Department (DIMA) detained Mr X in September 2003 under s 189(1) of the *Migration Act 1958*. They placed him into Villawood Immigration Detention Centre (IDC).

Visa applications

3. Mr X came to Australia on a visitors visa (April 1994); visa expired (May 1994); applied for a Protection Visa (PV) (May 1994); granted a Bridging Visa (BV) (May 1994); applied for a Class 828 Processing (temporary) Entry permit (July 1994) – discovered by DIMA as part of a data-purification exercise and refused (October 2005); DIMA refused his application for a PV (February 1995); appeal to the Refugee Review Tribunal (RRT) unsuccessful (September 1996); BV ceased (October 1996); application for judicial review in the Federal Magistrates Court (FMC) (August 2005) dismissed (November 2005); appeal to the Full Federal Court (FFC) (December 2005); successful (April 2006) and matter remitted to the FMC; pending.
4. Mr X made an application to the Minister under s 417 (October 1996); unsuccessful (June 1997); application to the Minister under s 48B (June 2005); unsuccessful (September 2005); DIMA initiated a s 48B assessment (May 2006); it did not meet the guidelines for referral to the Minister (July 2006).
5. The Minister declined to intervene in Mr X's case using her detention intervention powers (October 2005).

Current immigration status

6. Mr X is an unlawful non-citizen, currently in immigration detention.

Removal details

7. DIMA advises that it asked the PRC Consulate for a travel document for Mr X in June 2004 but has deferred making further applications until Mr X's litigation concludes. DIMA advises his case has been referred to the National Identity Verification and Advice Section.

Ombudsman consideration

8. DIMA reports to the Ombudsman under s 486N are dated 14 September 2005, 5 April 2006, and 29 September 2006.
9. Ombudsman staff interviewed Mr X at Villawood IDC on 20 February 2006, with an interpreter.