

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 096/06

Principal facts

Personal details

1. Mr X is a 37 year-old male from the People's Republic of China (PRC). He states that he has a father, two siblings, a wife and two young children living in the PRC.

Detention history

2. In July 2003, Department (DIMA) compliance officers located Mr X at a residential address in NSW. As a visa over stayer he was detained under s 189(1) of the *Migration Act 1958* and transferred to Villawood Immigration Detention Facility (IDF).
3. Mr X was granted a Bridging Visa (BV) in August 2003 and released from detention. Bond conditions attached to the BV included the payment of \$10,000 surety and his departure from Australia. Mr X failed to depart by the agreed date and, in February 2004, DIMA compliance officers located Mr X working as a painter in NSW. He was again detained under s 189(1) and transferred to Villawood IDF.

Visa applications

4. Mr X arrived in Australia (March 2003) on a Visitor Visa (VV), which expired June 2003; he was granted a BV (August 2003) but absconded. After being taken into immigration detention again Mr X applied for a Protection Visa (PV) (August 2004); PV refused (August 2004); Refugee Review Tribunal (RRT) affirmed refusal (December 2004); BV application made and refused (December 2004); judicial review of RRT decision sought in Federal Magistrates Court (FMC) (January 2005); another BV application made (January 2005); BV refused (February 2005); Migration Review Tribunal (MRT) affirmed refusal (March 2005); BV application made and deemed invalid (March 2005).
5. Mr X's FMC application was allowed, matter remitted back to the RRT for reconsideration (22 August 2005); BV application made and refused (August 2005); Minister filed an appeal with the Full Federal Court (FFC) against the FMC decision (12 September 2005); BV application made (September 2005); BV refused (October 2005); MRT affirmed BV refusal (17 October 2005); s 48B request lodged (10 April 2006); FFC by consent dismissed the Minister's appeal (12 May 2006); PV application remitted to RRT (12 May 2006); s 48B request information forwarded to RRT for inclusion in its deliberations, therefore request finalised (31 July 2006); RRT affirmed DIMA delegate's decision not to grant a PV (4 August 2006).
6. DIMA advised in August 2006 that it is currently preparing a submission for the possible consideration by the Minister of her detention intervention powers.

Current immigration status

7. Mr X is currently in detention at Villawood IDF.