

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 097/06

This is the third s 486O report by the Ombudsman on Mr X as he has remained in immigration detention since the Ombudsman's combined first and second report (53/06). The Ombudsman's report was sent to the Minister on 6/3/06 and tabled in Parliament on 10/5/06. This report updates the material in that report and should be read in conjunction with it.

Principal facts

Visa applications

1. On 15 June 2006, the Full Federal Court (FFC), by consent, allowed an appeal in relation to earlier decisions of the Federal Magistrates Court (FMC) and Refugee Review Tribunal (RRT). The FFC quashed the decision under appeal and remitted the matter to the RRT for reconsideration.
2. A submission is currently with the Minister for possible consideration of her detention intervention powers (April 2006).

Current immigration status

3. Mr X remains in immigration detention at Villawood Immigration Detention Centre (Villawood IDC). He has been in detention since May 2002.

Removal details

4. Mr X is not eligible for removal, pending the outcome of a future RRT hearing and any possible associated litigation.

Ombudsman consideration

5. A further report from DIMA to the Ombudsman under s 486N was dated 7 July 2006.
6. Ombudsman staff interviewed Mr X by telephone with the assistance of a Mandarin interpreter on 16 August 2006.

Key issues

Health and welfare

7. At interview with Ombudsman staff, Mr X said that his mental health was normal and his physical health was fine, and added that he was soon to have 11 teeth extracted.

Ombudsman assessment/recommendation

8. In Report 53/06 the Ombudsman discussed whether Mr X should remain in immigration detention while his immigration status is resolved. The Ombudsman noted the health risks associated with indefinite detention, that Mr X is not considered a threat to the Australian community, and that he does not appear to present a significant security risk. The Ombudsman recommended that the Minister consider granting Mr X an appropriate visa, such as a Removal Pending Bridging Visa (RPBV), subject to conditions that the Department deemed