

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 078/06

Principal facts

Personal details

1. Mr X is aged approximately 29 years old and is a citizen of Afghanistan. While in detention he married Ms Y, a dual citizen of France and Afghanistan.

Detention history

2. Mr X has been in immigration detention on two occasions. In January 2000, he arrived in Australia by boat. He was detained under s 189(2) of the *Migration Act 1958* and placed in Woomera Immigration Reception and Processing Centre. He was transferred to Perth Immigration Detention Centre (IDC) in January 2001, and later that month to Villawood IDC. Mr X absconded from Villawood IDC in January 2001.
3. Mr X was subsequently re-detained under s 189(1) and placed again in Villawood IDC in December 2003.

Visa applications

4. Mr X arrived in Australia (January 2000); applied for Protection Visa (PV) (June 2000); PV application refused (July 2000); Refugee Review Tribunal (RRT) affirmed refusal (March 2001); PV application lodged (August 2003), which was deemed invalid (September 2003); PV application lodged (September 2004); application refused (October 2004); RRT affirmed refusal (January 2005); Mr X did not seek judicial review of these decisions.
5. A s 417 request initiated (April 2001); request refused (June 2001); s 48B request initiated (September 2003); request deemed inappropriate (January 2004); s 48B request and four s 417 requests initiated (May 2004); s 48B request deemed inappropriate (June 2004); requests deemed inappropriate (July 2004); s 417 request and 48B request initiated (July 2004); 48B request allowed (September 2004).

Current immigration status

6. The Department (DIMA) advised that Mr X returned voluntarily to Afghanistan on 29 June 2005.

Removal details

7. DIMA advised that Mr X and Ms Y were offered the new Afghani Voluntary Reintegration Assistance package in May 2005. They accepted this offer in June 2005 and voluntarily departed from Australia the following month.

Ombudsman consideration

8. The DIMA report to the Ombudsman under s 486N was dated 15 December 2005.
9. Ombudsman staff sighted a psychological report from Professional Support Services (PSS), dated 7 July 2006.

Key issues

Health and welfare

- 10. DIMA advised that in September 2000, Mr X sewed his lips together and placed a needle in his mouth threatening suicide. He was subsequently restrained, and the needle was removed from his mouth 3 hours later. He was placed on Suicide and Self Harm (SASH) observation and agreed to the stitches being removed the following day. In November 2000 Mr X consumed a number of stones and was placed on SASH observation again; he was referred to a counsellor after this incident.
- 11. DIMA advised that Mr X suffered from depression, which was treated by medication. The PSS report notes that Mr X saw PSS counsellors weekly from March until December in 2004, presenting with anxiety. No psychiatric illnesses were identified, and ongoing review was recommended.
- 12. DIMA advised that Mr X sustained an injury to the mouth in December 2003, and was taken to hospital for treatment. He also had neck and shoulder pain that was managed by medication, physiotherapy and massage.

Attitude to removal

- 13. As Mr X elected to depart Australia before Ombudsman staff were able to conduct an interview, his attitude to removal is unknown.

Ombudsman assessment/recommendation

- 14. On the day the legislation came into effect providing the Ombudsman with the role of conducting assessments into the circumstances relating to the immigration detention of persons who had been in detention for more than two years, 29 June 2005, Mr X was voluntarily removed. It was therefore not feasible for Ombudsman staff to interview Mr X.
- 15. Mr X was held in immigration detention for two periods totalling three years. He was unavailable for removal during much of this time due to visa processes and subsequent merits review processes. In light of Mr X's voluntary removal to Afghanistan, the Ombudsman has no recommendations to make concerning his detention.


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Prof. John McMillan
Commonwealth and Immigration Ombudsman

21 September 2006
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Date