

# REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

*Under s 486O of the Migration Act 1958*

*Personal identifier: 446/08*

## **Case overview**

1. Mr X is aged 28 and is a citizen of the People's Republic of China (PRC). His parents reside in the PRC and he is in regular contact with them.
2. Mr X arrived in Australia on a temporary Student Visa (SV) in July 1999. On expiry of his SV, Mr X was granted a one-day Bridging Visa (BV) in August 1999, another temporary SV on the same day and a BV in March 2002. In August 2005 Mr X was detained under s 189(1) of the *Migration Act 1958* as a BV over-stayer and placed at Villawood Immigration Detention Centre (IDC).
3. The Department's (DIAC) decision to refuse Mr X's application for a permanent Protection Visa (PV) in April 2002 was affirmed and handed down by the Refugee Review Tribunal (RRT) (June 2003). Mr X made two unsuccessful requests to the Minister under s 417 (July 2004, August 2006); three unsuccessful requests under s 48B (September 2005, August 2006, January 2007); and two unsuccessful combined requests under s 417/48B (February 2007, May 2007); unsuccessfully sought judicial review at the Federal Magistrate's Court as application out of time (April 2006); successfully sought judicial review at the Full Federal Court (FFC) (October 2007).
4. On 1 November 2007 Mr X's BV was reinstated and he was released from detention when it was determined that his case was affected by the *Vean*<sup>1</sup> decision; FFC matter remitted to DIAC (April 2008) and on 23 June 2008 Mr X was granted a Temporary Protection Visa (TPV).

## **Ombudsman consideration**

5. DIAC's report to the Ombudsman under s 486N is dated 31 July 2007.
6. Ombudsman staff interviewed Mr X by telephone on 29 May 2008.

## **Key issues**

### *Health and welfare*

7. At interview with Ombudsman staff, Mr X reported that the sleep disturbance he suffered while in detention remained for approximately four months following his release. Mr X reported that his health care is now being managed by the Australian Red Cross (ARC), and that the ARC and the Asylum Seeker Assistance Scheme *'helped me a lot'*.

### *Post-release issues*

8. Mr X told Ombudsman staff that after his release he *'couldn't feel really happy'* as he was concerned about the remaining detainees in Villawood IDC, some of whom he considered had been detained *'too long'*. He commented that the security cameras and razor wire at Stage One at Villawood IDC made it resemble a maximum security gaol, and that this was *'not good for people's mental health'*.

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<sup>1</sup> *Vean v Minister for Immigration and Multicultural and Indigenous Affairs* [2003] FCAFC 311.

9. Mr X advised that since his release from detention, he is studying a pre-apprenticeship course at TAFE to become an electrician and is *'thinking very sharp'* now.

**Ombudsman assessment/recommendation**

10. The Ombudsman notes that Mr X was granted a TPV on 23 June 2008 makes no recommendation in this report.

*V. Thom*

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Dr Vivienne Thom  
Acting Commonwealth and Immigration Ombudsman

*15 July 2008*

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Date