

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 485/08

Case overview

1. Mr X is aged 31 and is a citizen of Afghanistan. His wife and daughter live in Afghanistan.
2. Mr X arrived in Australia by boat (January 2001), was detained under s 189(2) of the *Migration Act 1958* and placed at Woomera Immigration Reception and Processing Centre (IRPC); he escaped from Woomera IRPC on 27 June 2002 and was redetained the following day; transferred to Baxter Immigration Detention Centre (IDC) (March 2003); released from immigration detention on a Bridging Visa (BV) (July 2005).
3. Mr X applied for a Protection Visa (PV) (March 2001); application refused (May 2001); RRT affirmed the decision (July 2001); application filed for judicial review in the Federal Court (FC) (August 2001), matter remitted to the RRT by consent (November 2001), RRT re-affirmed decision (January 2002), application filed for judicial review in the FC (March 2002); application dismissed (June 2002); application filed for an extension of time to appeal to the Full Federal Court (FFC) (May 2003); application refused (June 2003); application filed in the FC seeking release (November 2003), application dismissed (March 2004); second application to FC seeking release (May 2004); application discontinued (August 2004).
4. Mr X requested the Minister intervene in his case under s 417, request deemed inappropriate to consider (April 2002); s 48B request initiated (July 2004), Ministerial discretion favourably exercised (August 2004), second PV application lodged (September 2004); second s 417 request initiated (January 2005), s 417 request deemed inappropriate to consider; second PV application refused, (February 2005), RRT remitted second PV refusal to DIAC (July 2005). Granted a Temporary Protection Visa (TPV) (August 2005) and a Permanent Protection Visa (PV) (March 2008).

Ombudsman consideration

5. DIAC's report to the Ombudsman under s 486N was dated 29 November 2005.
6. Ombudsman staff interviewed Mr X on 22 December 2006.
7. Ombudsman staff sighted the following documents: a medical report from Dr A dated 6 August 2005; a report from psychologist Mr B dated 27 October 2005; a Professional Support Services (PSS) psychological summary report dated 8 December 2005; and an International Health and Medical Services (IHMS) summary report dated 9 December 2005.

Key issues

Health and welfare

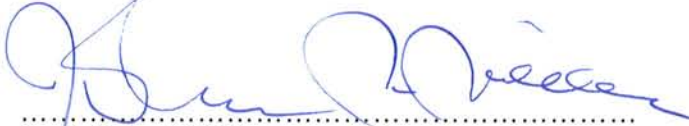
8. IHMS reported that Mr X *'was reviewed by the visiting psychiatrist as suffering from Major Depression, generalised anxiety and panic disorder. Medication was commenced and it was recommended that he be a voluntary admission to Glenside Hospital. However, he was released into the community prior to a bed being available at Glenside'*.
9. Mr X was assessed by psychologist Mr B shortly after his release from immigration detention. The report notes that while there was *'no evidence that Mr X suffered from a*

mental illness prior to his arrival in Australia', after his release from detention he required 'ongoing treatment and assistance in finding a direction in life'.

10. At interview with Ombudsman staff, Mr X described how the mental health of detainees is affected in detention, commenting that *'you don't know how long you are going to be there, like if you do any crime or something, you know you'll be locked up in jail for a period but in detention you have no idea what you have done and they lock you up'.*

Ombudsman assessment/recommendation

11. The Ombudsman notes that Mr X was granted a TPV in August 2005 after over four years in immigration detention, and a PV in March 2008. The Ombudsman makes no recommendations in this report.



.....
Prof. John McMillan
Commonwealth and Immigration Ombudsman

14 October 2008

.....
Date