

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 511/09

Principal facts

Personal details

1. Mr X is aged 60 and is a citizen of the Republic of Korea (South Korea). Mr X's ex-wife and two children live in South Korea. His sister, an Australian permanent resident, lives in NSW.

Detention history

2. In February 2002 Mr X entered Australia as the holder of an Electronic Travel Authority which expired on 14 May 2002. Mr X was subsequently granted a Long Stay Tourist Visa which expired on 9 November 2002. On 12 December 2006 Mr X was detained under s 189(1) of the *Migration Act 1958* as a visa over-stayer and was placed at Villawood Immigration Detention Centre where he remained for the duration of his detention.

Visa applications

3. Mr X lodged an application for a Protection Visa (PV) and associated Bridging Visa (BV), BV refused (December 2006); PV application refused (January 2007); sought review by the Refugee Review Tribunal (RRT) (January 2007), RRT affirmed the Department's (DIAC) decision (February 2007); appeal lodged to the Federal Magistrate's Court (FMC) (March 2007), dismissed (July 2007).
4. Mr X lodged a request under s 417 (August 2007), assessed as not meeting the guidelines for referral, referred on a schedule, the Minister declined to consider (November 2007); s 48B request lodged (April 2008); s 195A submission referred to the Minister (August 2008), the Minister declined to consider (October 2008); s 48B request assessed as not meeting the guidelines for referral; DIAC submitted a further s 417 request, associated BV application lodged (November 2008), BV application refused (December 2008); repeat s 417 request lodged, assessed as not meeting the guidelines for referral to the Minister (December 2008).

Removal details

5. Mr X was removed from Australia on 24 December 2008.

Ombudsman consideration

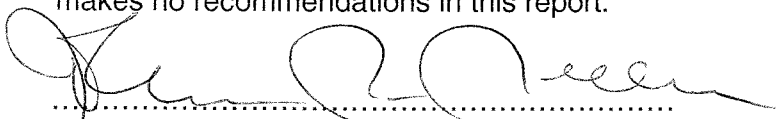
6. DIAC's report to the Ombudsman under s 486N is dated 1 December 2008.
7. Ombudsman staff were unable to interview Mr X.

Attitude to removal

8. DIAC advises that Mr X refused to complete travel documents application forms and was involuntarily removed to South Korea on a Certificate of Identification.

Ombudsman assessment/recommendation

9. The Ombudsman notes that Mr X was removed from Australia on 24 December 2008 and makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman

12 February 2009
Date