

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 594/10

This is the third s 486O report on Mr X as he has remained in immigration detention since the Ombudsman's second report. Previous reports are:

Report 539/09 tabled in Parliament on 17 June 2009

Report 570/09 tabled in Parliament on 18 November 2009

This report updates the material in those reports and should be read in conjunction with them.

Principal facts

Visa applications

1. The Department (DIAC) advises that Mr X has no applications, requests, judicial or tribunal reviews outstanding.

Current immigration status

2. Mr X remains an unlawful non-citizen in Maribyrnong Immigration Detention Centre. At the time of this report Mr X was recovering from complications following surgery at Y Hospital, Victoria (paragraph nine refers).

Removal details

3. DIAC advises that, although Mr X is on a removal pathway, there are two barriers to his removal. Firstly, Mr X will need to cease his dependence on methadone so he is fit to travel *'and will not experience any adverse symptoms following his arrival in Vietnam, which does not have a methadone program'*. Secondly, the Vietnamese authorities must issue a travel document.
4. DIAC states that the Vietnamese authorities have not accepted Mr X's identity and it is unlikely that they will issue a travel document *'unless new information comes to light'*. In its report DIAC outlines the avenues of enquiry it is pursuing in order to satisfy the Vietnamese authorities. It also states that *'Despite Mr X's assertions that he wishes to be returned to Vietnam he has been uncooperative in providing information to assist the department to assure the Vietnamese authorities of his identity'*.
5. The Vietnamese authorities have also raised concern that Mr X could be 75 percent incapacitated due to a head injury sustained in the past and *'therefore could not be returned to Vietnam'*. DIAC has supplied a medical report on Mr X's fitness to travel which states that Mr X is self-caring and is not 75 percent incapacitated and indicates that Mr X's *'alleged incapacitation will not be a barrier to removal'*.

Ombudsman consideration

6. DIAC's further report to the Ombudsman under s 486N is dated 4 March 2010.
7. Ombudsman staff sighted a medical summary report from International Health and Medical Services (IHMS) dated 9 February 2010 and correspondence from Detention Health Services dated 10 May 2010.

Key issues

Health and welfare

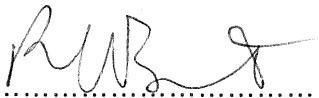
8. The IHMS report states that *'Mr X has gradually been reducing his methadone dosage' and 'continues to be reviewed by both the mental health team onsite and at Foundation House regarding his depression and reported history of torture and trauma'*.
9. On 10 May 2010 DIAC advised that on 29 April 2010 Mr X was admitted to hospital to undergo surgery for a bowel obstruction. He developed pneumonia and as at 10 May 2010 his pneumonia was not resolved and his abdominal wound was *'breaking down'*. Although IHMS has requested an indication regarding Mr X's fitness to travel from the hospital consultant it is not clear at this stage when Mr X may be discharged.

Attitude to removal

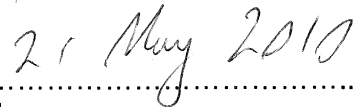
10. Mr X has told DIAC that he will return to Vietnam *'once his methadone and health issues are resolved'*. In February 2010 Mr X consulted with a psychiatrist who noted that he was *'dealing with his impending deportation with anger and resignation'*.

Ombudsman assessment/recommendation

11. Mr X has remained in immigration detention for over three years.
12. The Ombudsman notes Mr X's many health complications and the complexities of effecting his removal and makes no recommendations in this report.



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Ron Brent
Acting Commonwealth and Immigration Ombudsman



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Date