

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 304/07

Case overview

1. Mr X is aged 45, his partner Ms Y, is aged 45 and their son Mr Z is aged 18. Their daughter Miss A is aged six and was born in Australia. They are all citizens of the People's Republic of China (PRC). They have another daughter who resides with relatives in the PRC.
2. Mr X, Ms Y and Mr Z arrived in Australia on Sponsored Family (Short Stay) Visitor Visas (VV) in September 2000. Mr X was detained in February 2004, Ms Y and the children were detained in April 2004 by the Department (DIAC) under s 189(1) of the *Migration Act 1958* and placed at Villawood Immigration Detention Centre (IDC), later at Baxter IDC and Port Augusta Immigration Residential Housing. In July 2005 the family were placed in the community on a Residence Determination.
3. DIAC's decision in January 2001 to refuse the family's application for a permanent Protection Visa (PV) was affirmed by the Refugee Review Tribunal (RRT) in August 2002. The family unsuccessfully sought judicial review at the Federal Magistrates Court (FMC). DIAC's decision to refuse Miss A's application for a PV in April 2003 was affirmed by the RRT in February 2004. Miss A unsuccessfully sought judicial review at the Federal Court. Her appeal to the Full Federal Court resulted in her matter being remitted to the RRT. After the RRT again affirmed the decision to refuse her a PV in November 2005, she unsuccessfully sought judicial review at the FMC. DIAC initiated a s 48B request to the Minister arising out of interviews conducted by PRC officials in May 2004. In August 2006 the Minister allowed the family to make further applications for PVs, which were granted on 10 October 2006.

Ombudsman consideration

4. The DIAC reports to the Ombudsman under s 486N for Mr X are dated 22 February 2006 and 22 August 2006. Three separate reports for Ms Y, Mr Z and Miss A are dated 8 May 2006.
5. Ombudsman staff interviewed Mr X and Ms Y on 28 April 2006.

Ombudsman assessment/recommendation

6. The Ombudsman notes that Mr X, Ms Y and their children Mr Z and Miss A are now the holders of PVs and makes no recommendations in this report.


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Prof. John McMillan
Commonwealth and Immigration Ombudsman


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Date