

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 320/07

Case overview

1. Mr X is aged approximately 31 and is a citizen of Afghanistan. His wife, children, parents and siblings live in Afghanistan.
2. Mr X came to Australia in June 2001 by boat and was detained under s 189(2) of the *Migration Act 1958*. He was initially placed at Woomera Immigration Reception and Processing Centre and transferred to Baxter Immigration Detention Centre in February 2003. Mr X escaped from detention on two occasions during this time and faced criminal charges for escaping from lawful custody and damaging Commonwealth property. Mr X pleaded guilty to these charges and was sentenced to 10 months imprisonment. Time already served was taken into account and he was released on a two-year good behaviour recognisance.
3. The Department's (DIAC) decision to refuse Mr X's application for a Protection Visa (PV) in March 2002 was affirmed by the Refugee Review Tribunal (RRT) in June 2002. He sought judicial review at the Federal Court; proceedings were transferred to the Federal Magistrates Court and dismissed. A request under s 48B resulted in the Minister allowing Mr X to lodge another PV application. The application was refused and review was sought at the RRT, who remitted the matter to DIAC. Mr X was subsequently granted a Temporary Protection Visa (TPV) on 6 July 2005 and released from detention.

Ombudsman consideration

4. DIAC's report to the Ombudsman under s 486N is dated 7 December 2005.
5. Ombudsman staff were unable to contact Mr X to interview him.

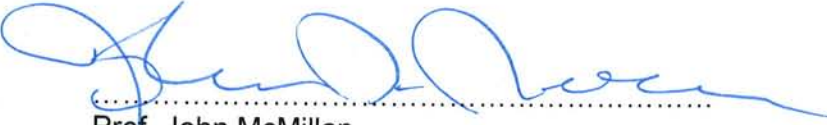
Key issues

Health and welfare

6. DIAC advises that Mr X had a history of self-harm. Between 16 December 2001 and 30 January 2002 he undertook voluntary starvation. On 27 January 2002 he collapsed with severe dehydration and was transferred to Woomera Hospital.

Ombudsman assessment/recommendation

7. The Ombudsman notes that Mr X is now the holder of a TPV and makes no recommendations in this report.


Prof. John McMillan
Commonwealth and Immigration Ombudsman


Date