

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 345/07

Case overview

1. X is aged 31 and X's child Y is aged 13. They are citizens of Iran. X's partner lives in New Zealand.
2. X and Y arrived in Australia in December 2003 on route to New Zealand. They were detained by the Department (DIAC) under s 189(2) of the *Migration Act 1958* and placed at Baxter Immigration Detention Centre and then at Port Augusta Immigration Residential Housing. In July 2005 X and Y were granted a Bridging Visa and released from detention. In December 2005 they were re-detained and placed in Community Detention.
3. DIAC's decision in November 2004 to refuse X and Y's application for a permanent Protection Visa (PV) was affirmed by the Refugee Review Tribunal (RRT) in April 2005. X's appeal to the Federal Court (FC) resulted in the matter being remitted to the RRT. The RRT again affirmed the decision to refuse X and Y a PV in November 2005. A request under s 48B resulted in the Minister allowing X and Y to lodge another PV application, and on 26 June 2006, they were granted Temporary Protection Visas (TPV).

Ombudsman consideration

4. The DIAC reports to the Ombudsman under s 486N for X and Y are dated 24 May 2006.
5. Ombudsman staff interviewed X on 14 June 2006.
6. Ombudsman staff sighted the following documents in relation to Y: a psychology summary report from Professional Support Services (PSS) dated 17 May 2006; a letter from Ms Z, consultant psychotherapist at the Flinders Medical Centre dated 20 November 2006; and an undated letter from Y received 3 January 2007.

Key issues

Health and welfare

7. DIAC advises that a psychological assessment in February 2005 found that X was *'clinically depressed, highly anxious and agitated, experiencing suicidal ideation and has engaged in self harm'*. X was placed on Suicide and Self Harm observations four times in detention and was hospitalised in a psychiatric unit from 30 January 2006 to 9 February 2006. At interview X said that X did not have a history of mental illness prior to being detained.
8. Ms Z diagnosed Y with Post-traumatic Stress Disorder (PTSD) as a result of *'having lived in a context of torture, trauma and incarceration for most of [Y's] young life'*. Ms Z noted that while the PTSD symptoms had improved since Y and X had been granted TPVs, Y's recovery had been significantly impeded due to lack of physical contact with Y's other parent. In Y's letter Y wrote that at night Y cries because Y misses Y's parent so much. Y wrote that Y's parent calls Y every day but *'I can't see [them] so what is good about that'*.
9. Ms Z reported that *'Y's recovery from PTSD, as well as Y's ability to (re)settle, assimilate and thrive within Australian society, would be profoundly enhanced if Y is able to reunite with [Y's parent] and the three of them live together before Y gets to the age of 15 or older'*.

Ombudsman assessment/recommendation

10. X and Y were detained on their way to New Zealand to be with X's partner who had fled Iran before them. They were detained for over two years and both have been diagnosed with mental health problems. The available medical opinion is that Y's mental health recovery is dependent upon being re-united with Y's parent. As they are both currently holding TPVs, they are unable to leave Australia. In light of these considerations the Minister might consider options for facilitating the family to be reunited.



Prof. John McMillan
Commonwealth and Immigration Ombudsman


Date