

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Mr X who has remained in immigration detention for more than 30 months (two years).

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1959 |
| Ombudsman ID | 1002714-O |
| Date of department's reports | 15 July 2017 and 15 January 2018 |
| Total days in detention | 914 (at date of department's latest report) |

Detention history

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| 16 July 2015 | Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from a correctional facility. He was transferred to Facility B. |
| 22 July 2015 | Transferred to Facility C. |
| 16 November 2016 | Transferred to Facility B. |
| 24 January 2017 | Transferred to Facility C. |

Visa applications/case progression

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| Mr X arrived in Australia on 31 October 1983 on a refugee visa. Following legislative amendment on 1 September 1994, Mr X held a Transitional (Permanent) visa. | |
| 2 March 1995 | Mr X's application for Australian citizenship was refused on character grounds. |
| 24 October 2000 | Issued with a Notice of Intention to Consider Cancellation (NOICC) of his visa under s 501. |
| 14 May 2002 | Transitional (Permanent) visa cancelled under s 501. |
| December 2006 | Mr X's Transitional (Permanent) visa was reinstated following the Federal Court's decision ¹ in another matter. |
| 7 May 2007 and 11 April 2014 | Issued with a further NOICC of his visa under s 501. |
| 5 June 2015 | Transitional (Permanent) visa mandatorily cancelled under s 501. |
| 29 June 2015 | Mr X lodged a Request for Revocation of Cancellation. On 7 November 2016 the Assistant Minister decided not to revoke the decision to cancel Mr X's visa under s 501. |
| 10 January 2017 | Lodged a Protection visa application. |
| 2 March 2017 | Protection visa application refused. |

¹ *Sales v Minister for Immigration and Multicultural Affairs* [2006] FCA 1807.

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| 17 August 2017 | The Administrative Appeals Tribunal (AAT) affirmed the refusal of his Protection visa application. |
| 4 September 2017 | Applied to the Federal Circuit Court for judicial review of the AAT's decision. A hearing was scheduled for February 2018. |

Criminal history

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| Mr X has an extensive criminal history in Australia, including convictions for drug, dishonesty, driving and violence offences. | |
| May 2004 | Convicted of attempted murder and sentenced to 16 years imprisonment. He was also convicted of two counts of acting with intent to cause grievous bodily harm and sentenced to 12 years imprisonment. |

Health and welfare

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| <p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma in July 2015 and attended an initial specialist counselling session. Mr X also presented with nightmares, sleep concerns, hypervigilance and rumination about past trauma that was triggered by riots in immigration detention. He was diagnosed with a possible acute stress disorder and post-traumatic stress disorder and prescribed with medication, however he subsequently declined medication after experiencing side-effects. IHMS advised that Mr X's acute stress had improved and he continued to engage with mental health team as required.</p> <p>Mr X was diagnosed with hepatitis C following routine pathology testing in July 2015. He underwent investigative testing and commenced treatment under the direction of a liver specialist in July 2016. IHMS reported that Mr X's treatment was successful and he continued to attend regular pathology testing as per his care plan.</p> <p>IHMS further advised that Mr X was reviewed by an ophthalmologist in November 2016 after presenting with eye concerns and no further treatment was required.</p> | |
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Other matters

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| Mr X's three children are Australia citizens and reside in the community. |
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Case status

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| <p>Mr X was detained on 16 July 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two and a half years.</p> <p>Mr X's Transitional (Permanent) visa was mandatorily cancelled under s 501 on 5 June 2015. The Assistant Minister decided not to revoke the cancellation of his visa on 7 November 2015.</p> <p>On 2 March 2017 Mr X's Protection visa application was refused and on 17 August 2017 the AAT affirmed the refusal. At the time of the department's latest report, Mr X was awaiting the outcome of judicial review.</p> |
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