

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 two and a half years.

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1002741-O
Date of department's reports	18 August 2017 and 16 February 2018
Total days in detention	912 (at date of department's latest report)

Detention history

August 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following the cancellation of his visa under s 501. He was transferred to Facility B.
October 2015	Transferred six times between various Immigration Detention Centres.
December 2017	Transferred to Facility C.

Visa applications/case progression

Mr X arrived in Australia in September 2000 on a Child visa.	
March 2014	Issued with a Notice of Intention to Consider Cancellation of his Child visa under s 501 following criminal convictions.
August 2015	Child visa cancelled under s 501.
September 2015	Lodged a Protection visa application.
October 2015	Protection visa application refused.
December 2015	The Administrative Appeals Tribunal (AAT) affirmed the decision to refuse Mr X's Protection visa application.
May 2016	The Federal Circuit Court (FCC) remitted Mr X's case to the AAT for reconsideration.
July 2016	The AAT affirmed the original refusal decision.
February 2017	The FCC dismissed Mr X's application for judicial review of the AAT's decision to affirm the refusal of his Protection visa application.
April 2017	The FCC dismissed Mr X's application for judicial review of the decision to cancel his Child visa.
June 2017	Found not to meet the guidelines for ministerial intervention under s 417 for the Minister to substitute a more favourable decision.
September 2017	The Federal Court (FC) dismissed Mr X's application for judicial review of the FCC's decision to affirm the cancellation of his Child visa.

December 2017	Applied to the FC for judicial review of the FCC's decision to affirm the refusal of his Protection visa application. The matter was adjourned and a hearing was scheduled for March 2018.
January 2018	The FC dismissed Mr X's application for an injunction preventing his removal from Australia.

Criminal history

June 2005 – March 2009	Convicted of multiple offences. He was fined and sentenced to multiple terms of imprisonment of up to one year and four months, all of which were suspended upon entering a bond.
November 2013	Convicted of one offence and sentenced to two years imprisonment with a non-parole period of one year.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health concerns, including chronic pain. He disclosed ongoing pain from a pre-existing injury and was prescribed with medication and referred for physiotherapy and orthopaedic review. An orthopaedic specialist advised that Mr X had osteoarthritis and recommended a cortisone injection for pain relief. Mr X continued to experience ongoing pain following this injection and was referred for a subsequent review with an orthopaedic specialist. He continued to await appointments with an orthopaedic specialist and general and vascular surgeons at the time of IHMS's latest report.

IHMS further advised that Mr X was referred for specialist counselling after disclosing a history of torture and trauma and was prescribed with medication for the management of symptoms of depression which he later declined.

Case status

Mr X was detained in August 2015 following the cancellation of his visa under s 501 and has remained in an immigration detention facility for more than two and a half years.

Mr X's Child visa was cancelled under s 501 in August 2015 and in September 2017 the FC dismissed his application for judicial review.

In September 2015 Mr X lodged an application for a Protection visa and in October 2015 it was refused. At the date of the Department of Home Affairs' latest report he was awaiting the outcome of judicial review.