

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 243/07

Case overview

1. Mr X passed away in July 2007, aged approximately 41. Prior to his death, Mr X resided with his two daughters, Ms Y aged 22 and Ms Z aged 20, and his son, Master A aged approximately 17. Mr X had also claimed to be the adopted father of Mr B, aged 26, who is the subject of Report 242/07. The family are citizens of Vietnam.
2. The X family arrived in Australia by boat in July 2003. They were detained under s 189(2) of the *Migration Act 1958* and placed at Christmas Island Immigration Reception and Processing Centre.
3. The Department's (DIAC) decision to refuse the X family's application for a Protection Visa (PV) in October 2003 was affirmed by the Refugee Review Tribunal in April 2004. A request under s 195A resulted in the Minister granting Temporary Protection Visas (TPV) on 28 July 2005 and releasing the family from detention.

Ombudsman consideration

4. The DIAC report to the Ombudsman under s 486N is dated 21 July 2005.
5. Ombudsman staff interviewed Mr X together with two of his brothers, Mr B and Mr C, and his sister-in-law Ms D (who are the subject of Reports 244/07 and 241/07 respectively), on 27 October 2005.
6. Ombudsman staff sighted a medical summary report from International Health and Medical Services (IHMS), dated 1 September 2006, on Ms Y and a psychological summary report from Professional Support Services (PSS), dated 4 September 2006, on Ms Y.

Key issues

Health and welfare

7. PSS noted that Ms Y was seen between October 2004 and September 2005. She presented with '*sadness and worry regarding family members back in Vietnam and her own future*'.
8. IMHS noted that Ms Y complained of recurrent abdominal pain, loss of appetite, nausea and weight loss. In July 2005 Ms Y was transferred to alternative detention arrangements in Perth for two weeks to undergo medical tests, which identified that she was suffering from gastritis.

Issues outside of detention

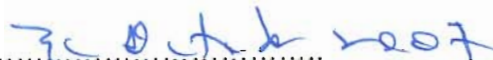
9. The X family told Ombudsman staff that they were aware they had a visa for three years only and were not aware, that as holders of a TPV, they were entitled to apply for a PV at the conclusion of 30 months, or earlier at the discretion of the Minister.

Ombudsman assessment/recommendation

10. The Ombudsman wishes to convey his condolences to Mr X's children and extended family in regards to his death.
11. The Ombudsman notes that Mr X's children, Ms Y, Ms Z and Master A are now the holders of TPVs and makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman



Date