

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 340/07

Case Overview

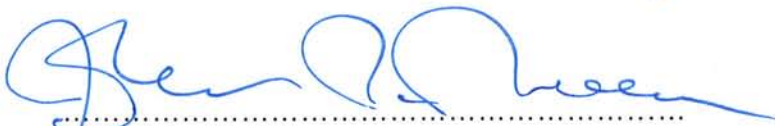
1. Mr X is aged 32, Ms Y is aged 31 and they are both citizens of the People's Republic of China (PRC). They were married in November 2000 in Australia. They have two children, Master Z, aged five, and Miss A, aged three, both born in Australia.
2. Mr X arrived in Australia in March 1996 and Ms Y arrived in January 1998, both by air. In August 2003, the Department (DIAC) detained Mr X, Ms Y and Master Z under s 189(1) of the *Migration Act 1958* and placed them at Villawood Immigration Detention Centre. Miss A was born in detention. The family were transferred into the community on a Residence Determination on 28 July 2005.
3. Mr X came to Australia on a Business Short Stay Visa. DIAC's decision in September 1997 to refuse his Protection Visa (PV) application was affirmed by the Refugee Review Tribunal (RRT) in February 1999. Ms Y came to Australia on a Tourist Short Stay Visa. DIAC's decision in August 1998 to refuse her PV application was affirmed by the RRT in January 2000. Ms Y unsuccessfully sought judicial review at the Federal Magistrates Court (FMC). DIAC's decision in April 2004 to refuse Master Z's application for a PV was affirmed by the RRT in October 2004. Master Z unsuccessfully sought judicial review at the FMC.
4. In February 2006 DIAC initiated a s 48B request to the Minister arising out of interviews conducted by PRC officials in May 2005. As a result the Minister allowed the family to make further applications for PVs, which included Miss A. On 10 August 2006, the family were granted Temporary Protection Visas (TPV).

Ombudsman consideration

5. DIAC's reports to the Ombudsman under s 486N for the family are dated 10 August 2005, 22 February 2006 and 22 August 2006. A separate report on Miss A is dated 15 June 2006.
6. Ombudsman staff interviewed Mr X and Ms Y on 21 February 2006.

Ombudsman assessment/recommendation

7. The Ombudsman notes that Mr X, Ms Y and their children Master Z and Miss A are now the holders of TPVs and have been assessed by DIAC as suitable for Permanent Protection Visas, subject to relevant health checks. The Ombudsman makes no recommendations in this report.


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Prof. John McMillan
Commonwealth and Immigration Ombudsman


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Date