

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 and a half years).

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1980 |
| Ombudsman ID | 1002655-O |
| Date of department's reports | 2 May 2017 and 31 October 2017 |
| Total days in detention | 912 (at date of department's latest report) |

Detention history

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| 3 May 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. |
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Visa applications/case progression

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| <p>Mr X arrived in Australia with his family on 18 November 1989 on visitor visas. Mr X and his family were granted permanent visas on 9 June 1999.</p> <p>A delegate of the Minister considered cancelling Mr X's permanent visa under s 501 in 2007 and 2010 after he was convicted of criminal offences. On both occasions the delegate declined to cancel Mr X's permanent visa and instead issued him with a warning letter advising that further criminal convictions could result in the cancellation of his visa.</p> | |
| 22 April 2015 | Permanent visa cancelled under s 501 following further criminal convictions. |
| 10 May 2015 | Lodged a Request for Revocation of Cancellation. On 1 September 2016 the Assistant Minister decided not to revoke the decision to cancel Mr X's visa under s 501. |
| 27 September 2016 | Applied to the Federal Court (FC) for judicial review. |
| 13 October 2016 | Withdrew his application for judicial review by the FC and applied to the Federal Circuit Court (FCC) for judicial review. The FCC dismissed his application on 1 December 2016. |
| 2 December 2016 | Requested ministerial intervention under s 417 for the Minister to substitute a more favourable decision. On 12 January 2017 he was found not to meet the guidelines for referral to the Minister under s 417. |
| 31 October 2017 | <p>The Department of Home Affairs (the department) advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway.</p> <p>The department further advised that it had lodged an application for a travel document with the authorities of Country A on behalf of Mr X.</p> |

Criminal history

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| 15 May 2001 – 4 November 2014 | Convicted of numerous offences, including breaking and entering property, receiving stolen property, driving offences and maliciously inflicting grievous bodily harm. He was issued with numerous fines and sentenced to multiple terms of imprisonment. |
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Health and welfare

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| <p>International Health and Medical Services (IHMS) advised that Mr X was diagnosed with hepatitis C during a routine pathology test in May 2015. He was subsequently reviewed by a hepatology specialist and underwent investigative testing which identified liver concerns. Mr X was provided with lifestyle education and attended follow-up reviews as required. He was awaiting suitable hepatitis C treatment at the time of his latest specialist review.</p> <p>IHMS further advised that Mr X attended physiotherapy for knee pain.</p> | |
| 23 December 2015 | An Incident Report recorded that Mr X threatened self-harm. |
| 27 September 2017 | An Incident Report recorded that Mr X refused food and fluid. |

Other matters

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| The department advised that Mr X's wife and five minor children are Australian citizens. His parents and siblings are also Australian citizens. |
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Case status

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| <p>Mr X was detained on 3 May 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>On 22 April 2015 Mr X's permanent visa was cancelled under s 501 following criminal convictions. On 1 September 2016 the Assistant Minister decided not to revoke the decision to cancel his visa and on 1 December 2016 the FCC dismissed his application for judicial review.</p> <p>Mr X has no matters before the department, the courts or tribunals and is on a removal pathway.</p> |
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