

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 more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1978
Ombudsman ID	1002715-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

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.
28 August 2015	Transferred to Facility C.
7 December 2016	Transferred to Facility B.
24 January 2017	Transferred to Facility C.

Visa applications/case progression

<p>Mr X arrived in Australia on 20 January 1988. He was granted a resident return visa on 30 October 1992 which was renewed on 29 January 1998.</p> <p>Mr X lodged an application for Australian citizenship on 28 October 2004. The Department of Home Affairs (the department) advised that his application was refused as he was in prison at the time the application was being considered.</p>	
31 March 2009 and 12 October 2011	Issued with a Notice of Intention to Consider Cancellation of his resident return visa under s 501. On 22 December 2010 and 5 April 2012 Mr X was notified his visa had not been cancelled.
7 July 2015	Resident return visa mandatorily cancelled under s 501.
3 August 2015	Mr X lodged a Request for Revocation of Cancellation. On 14 March 2017 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
18 April 2017	Applied to the Federal Court (FC) for judicial review of the cancellation of his visa under s 501.
19 April 2017	Applied to the FC for an injunction preventing his removal from Australia.
5 June 2017	The FC ordered that both of Mr X's applications be heard together.
19 June 2017 and 2 October 2017	The FC adjourned.

Criminal history

February 2009	Convicted of assault and rape and sentenced to five years imprisonment.
October 2010	Convicted of driving offences and placed on an intensive corrections order for four months.
May 2011 – August 2013	Convicted of theft and offensive behaviour charges and issued with fines.
March 2015	Convicted of four counts of failing to comply with a supervision order and sentenced to eight months imprisonment.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was diagnosed with a generalised anxiety disorder in June 2016 after presenting with stress, anxiety, fatigue and sleep concerns. He regularly attended psychological counselling and a treating psychologist noted that he displayed symptoms of an autism spectrum disorder, including abnormal social behaviours and difficulties adjusting to change. Mr X reported that he was previously diagnosed with autism and had experienced emotional problems since childhood. In November 2016 a psychiatrist confirmed the diagnosis of autism. IHMS advised that Mr X continues to engage with the mental health team and attend psychological counselling to develop social skills and manage anxiety.

IHMS further advised that Mr X received treatment for nasal and eye concerns and was awaiting an appointment with an optometrist at the time of its latest report.

Detention incidents

21 December 2016	An Incident Report recorded that Mr X allegedly assaulted a Serco officer. The department subsequently advised that the matter was referred to police for investigation and on 16 August 2016 the police reported that the investigation had been finalised and closed.
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Other matters

Mr X's parents are Australian permanent residents and his two siblings are Australian citizens.

Case status

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.

Mr X's resident return visa was mandatorily cancelled under s 501 on 7 July 2015 and on 14 March 2017 the Minister decided not to revoke the decision to cancel his visa.

At the time of the department's latest report, Mr X was awaiting the outcome of judicial review.