

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Mr X who has remained in immigration detention for more than 60 months (five years). The previous assessment 1001646-O was tabled in Parliament on 1 March 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1988 |
| Ombudsman ID | 1001646-O1 |
| Date of department's reports | 11 May 2017 and 9 November 2017 |
| Total days in detention | 1,822 (at date of department's latest report) |

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

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| 13 February 2017 | The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa. |
| 1 March 2017 | The Federal Circuit Court (FCC) affirmed the Immigration Assessment Authority's (IAA) decision to affirm the refusal of Mr X's Safe Haven Enterprise visa (SHEV) application. |
| 15 March 2017 | Applied to the Full Federal Court (FFC) for judicial review. The matter was adjourned on multiple occasions and a hearing was scheduled for 14 December 2017. |
| 18 August 2017 | Found not to meet the guidelines for referral to the Minister under s 195A. |

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X presented with symptoms of intense stress and depression during a psychiatric review in November 2016. The psychiatrist noted that Mr X's depressive disorder was being worsened due to the detention environment and adjusted his prescribed antidepressant medication. In December 2016 Mr X reported to a general practitioner that his symptoms had improved. He declined to engage further with the mental health team and IHMS advised that it continued to offer support as needed.

IHMS further advised that Mr X had been referred for orthopaedic review and physiotherapy for knee concerns and was awaiting a dermatological appointment.

Information provided by Mr X

During interviews with Ombudsman staff on 18 April 2016 and 19 December 2017 Mr X advised that his application for judicial review was currently before the FFC. He stated that he had been provided with a lawyer the first time he appeared, however he had not had a lawyer since then. He stated that he had tried to find a lawyer, but that advocacy groups had just referred him to other people, and he could not afford a private lawyer. He said that representing himself was very difficult.

Mr X stated that he saw his case manager every two or three months and that his case was put forward for a bridging visa around three months ago. He stated that he had not received an update from his case manager and did not understand why he continued to be detained. He stated that there used to be a problem with his security clearance, but he believed this was no longer a concern.

Mr X advised that he had a good behavioural record in detention and did not have any concerns with the detention centre staff. He stated that the food was really bad as there was not enough and the quality was poor.

Mr X advised that his mood was very low due to the length of time he had remained in detention. He advised that he felt lost, stressed and could not remember things and that he saw counsellors occasionally. Mr X also stated that he had a leg injury that required surgery but that it was yet to occur.

Mr X advised that he did not have any family or friends in the community, and he was not in contact with anyone from Country A. He advised that he was lonely as he did not have anyone to call, but that he had some friends in the facility.

Ombudsman assessment

Mr X was detained on 13 November 2012 after arriving in Australia by sea and has remained in an immigration detention facility for more than five years.

On 1 March 2017 the FCC affirmed the IAA's decision to affirm the refusal of Mr X's SHEV application. On 15 March 2017 Mr X applied to the FFC for judicial review and a hearing was scheduled for 14 December 2017.

On 13 February 2017 the Minister declined to intervene under s 195A to grant Mr X a bridging visa and on 18 August 2017 Mr X was found not to meet the guidelines for referral to the Minister under s 195A.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. IHMS has advised that Mr X presented with symptoms of intense stress and depression and a psychiatrist advised that his depressive disorder was being worsened by the detention centre environment.

The Ombudsman further notes that on 13 November 2015 the Department of Immigration and Border Protection advised that Mr X had been identified as a person of interest in relation to his alleged involvement in criminal matters overseas.