

## 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1970
<b>Ombudsman ID</b>	1002657-O
<b>Date of department's reports</b>	2 May 2017 and 31 October 2017
<b>Total days in detention</b>	912 (at date of department's latest report)

### Detention history

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

Mr X arrived in Australia on 19 July 2007 on a tourist visa that ceased on 19 October 2007.	
31 August 2007	Lodged a Protection visa application and granted a bridging visa.
16 November 2007	Protection visa application refused.
17 December 2007	Applied to the Refugee Review Tribunal (RRT) for merits review. The RRT affirmed the original decision on 3 April 2008.
22 April 2008	Applied to the Federal Magistrates Court (FMC) for judicial review. The FMC affirmed the decision on 31 July 2008.
2 October 2008	Granted a further bridging visa that was renewed multiple times and ceased on 17 April 2015.
26 October 2009	Lodged a Combined Partner visa application that was found to be invalid on 27 October 2009.
16 November 2009	Lodged a further Combined Partner visa application.
12 April 2011	Granted a Combined Partner visa.
17 April 2015	Combined Partner visa cancelled under s 501.
7 May 2015	Mr X lodged a Request for Revocation of Cancellation. On 14 February 2017 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
12 July 2016	Found not to meet the guidelines for referral to the Minister under s 48B.
10 March 2017	Applied to the Federal Circuit Court (FCC) for judicial review of the decision not to revoke the visa cancellation. On 28 March 2017 the matter was referred to the Federal Court (FC).

14 July 2017	The FC adjourned the matter pending the determination of a case <sup>1</sup> before the High Court (HC) which was scheduled for hearing on 14 November 2017.
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### Criminal history

3 March 2014	Convicted on one count of supplying a large commercial quantity of a prohibited drug and sentenced to seven years and three months imprisonment.
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### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health concerns including prostate cancer, an eye condition and chest, knee and back pain.

Mr X was diagnosed with cancer prior to his arrival in detention and underwent surgery to remove his prostate in May 2016. During the surgery he lost a significant amount of blood and was subsequently transferred to the intensive care unit. Following his discharge he was reviewed on multiple occasions, prescribed with medication and attended post-operative physiotherapy sessions for urological concerns. Following a September 2016 ultrasound he was determined to have an umbilical hernia and in March 2017 it was noted that his urological concerns had improved.

Mr X was hospitalised and underwent investigative testing following an incidence of chest pain in November 2015. Initial test results indicated no significant concerns and Mr X was prescribed with preventative medication and referred for further investigation. He underwent a stress test and a cardiology report noted that he did not have any significant cardiac issues at that time. He was required to attend a follow-up appointment with a cardiology specialist due in February 2018.

Mr X also attended multiple specialist appointments for the management of eye concerns and underwent investigative testing for lower back pain. A computed tomography scan of Mr X's spine in December 2016 indicated a bulging disc and some deterioration and he was prescribed with medication. Following headaches in August 2017, Mr X underwent further testing which indicated additional spinal concerns and he was referred to a physiotherapist. He continued to be monitored by a general practitioner (GP).

IHMS further advised that Mr X disclosed a history of torture and trauma and intermittently engaged with the mental health team (MHT). He was reviewed on several occasions and in September 2017 Mr X reported he was experiencing sleeping difficulties, loss of hope and worries related to long-term detention. He continued to be monitored by the MHT and a GP.

### Detention incidents

30 December 2015 and 2 February 2016	Incident Reports recorded that Mr X was allegedly assaulted on two occasions.
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### Other matters

Mr X has a wife and five year old son who are both Australian citizens.

<sup>1</sup> *Falzon v Minister for Immigration and Border Protection* (S31 of 2017).

**Case status**

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.

Mr X's Combined Partner visa was cancelled under s 501 on 17 April 2015 and on 14 February 2017 the Minister decided not to revoke the decision to cancel his visa.

Mr X applied to the FCC for judicial review and on 28 March 2017 the matter was subsequently referred to the FC. On 14 July 2017 the FC adjourned the matter pending the determination of a case before the HC.