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

Name	Mr X
Citizenship	Country A
Year of birth	1984
Ombudsman ID	1002569-O
Date of DIBP's reports	9 January 2017 and 10 July 2017
Total days in detention	914 (at date of DIBP's latest report)

Detention history

16 November 2010	Detained under s 189(3) of the *Migration Act 1958* after arriving in Australia by sea with his brother, Mr Y.[1] He was transferred to Christmas Island Immigration Detention Centre (IDC).
22 July 2011	Transferred to Villawood IDC.
24 August 2011	Transferred to a correctional facility.
20 October 2011	Transferred to Facility B.
13 March 2012	Granted a bridging visa and released from detention.
5 May 2016	Re-detained under s 189(1) after living unlawfully in the community. He was transferred to Facility C.

Visa applications/case progression

22 January 2011	Lodged a Protection visa application and underwent a Refugee Status Assessment (RSA).
1 March 2011	RSA found that Mr X was not owed protection and his Protection visa application was refused.
20 April 2011	Requested an Independent Merits Review (IMR).
13 March 2012	Granted a bridging visa.
20 June 2012	IMR affirmed original decision.
16 January 2013	Applied to the Federal Magistrates Court (FMC) for judicial review.
6 December 2013	FMC affirmed original decision.
24 December 2013	Applied to the Full Federal Court (FFC) for judicial review.
3 June 2014	FFC affirmed original decision.
23 October 2014 and 2 June 2017	Found not to meet the guidelines for referral to the Minister under s 195A for the grant of a bridging visa.

[1] Mr Y resides in the community on a Protection visa, granted on 14 July 2011.

2 September 2015	Mr X's case was affected by the judgment handed down by the FFC[2] which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
13 April 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. The department advised that the Minister lifted the bar under s 46A to allow those who arrived in Australia prior to 13 August 2012 and were affected by the data breach[3] to apply for a temporary protection visa.
20 September 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 21 September 2016 and was assigned a provider.
27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair.[4]
27 February 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.
26 May 2017	SHEV application refused.
6 June 2017	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.

Other legal matters

December 2015	Found guilty of a drug offence and placed on a good behaviour bond for one year, with no conviction recorded.
September 2016	Found guilty of possessing a prohibited weapon and property damage and placed on a good behaviour bond for one year, with no conviction recorded. He was scheduled to reappear at court in September 2017 in relation to his good behaviour bond.
December 2016	Found guilty of theft and unlawful assault and placed on a two-month good behaviour bond, with no conviction recorded.

[2] *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

[3] In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.

[4] *Minister for Immigration and Border Protection v SZSSJ* [2016] HCA 29.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was diagnosed with schizophrenia in 2012 and previously received psychiatric treatment in Country A. IHMS reported that he has a history of poor compliance with medication and was admitted to hospital for psychiatric treatment under mental health legislation on multiple occasions. Notably, while residing in the community, Mr X was twice admitted to hospital after experiencing allegedly drug-induced psychotic episodes. In December 2016 a psychiatrist noted that his condition had improved and his schizophrenia was in remission.

On 23 April 2017 Mr X was placed on Supportive Monitoring and Engagement observations after his mental health deteriorated and was subsequently involuntarily admitted to hospital for treatment after experiencing a drug induced psychotic relapse. He was discharged on 5 May 2017 following improvements in his condition and continued to be monitored by a psychiatrist.

IHMS further advised that Mr X was provided with treatment for shoulder pain, lower back pain and gastric reflux.

24 April 2017	An Incident Report recorded that Mr X refused food and fluid.
25 April 2017 – 5 May 2017	Admitted to a psychiatric hospital.

Detention incidents

July 2011	The department advised that Mr X was involved in a riot at Facility B and subsequently transferred to a correctional facility to enable the police to investigate the incident.

Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

Case status

Mr X was detained on 16 November 2010 after arriving in Australia by sea and has been held in detention for a cumulative period of more than two and a half years.

On 13 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 27 February 2017 Mr X lodged an application for a SHEV.

Mr X's SHEV application was refused on 26 May 2017 and his case was referred to the IAA for review.