

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 335/07

Principal facts

Personal details

1. Mr X is aged 31 and is a citizen of the People's Republic of China (PRC). Mr X's family, including his ex-wife and eight-year-old daughter, reside in the PRC.

Detention history

2. Mr X arrived in Australia on 16 May 2005 on a Tourist Visa under an alias and using a fraudulent PRC passport. On 5 July 2005, he was detained under s 189(1) of the *Migration Act 1958* and placed at Villawood Immigration Detention Centre (IDC).

Visa applications

3. Mr X applied for a Protection Visa (PV) (August 2005), PV and associated Bridging Visa (BV) refused, refusals appealed to the Refugee Review Tribunal (RRT) and the Migration Review Tribunal (MRT), the MRT remitted BV refusal decision back to the Department (DIAC), BV application again refused (September 2005), the RRT affirmed decision (October 2005); application to Federal Magistrates Court (FMC) (December 2005), dismissed (April 2006), application to the Full Federal Court for an extension of time to appeal FMC decision (May 2006), refused; combined request under s 417/48B (September 2006), s 48B assessed as not meeting the guidelines for referral to the Minister, s 417 was not considered by the Minister (March 2007); second combined s 417/48B request (March 2007), s 417 request assessed as not meeting the guidelines for referral to the Minister (July 2007), s48B application declined; further s 48B request (August 2007), assessed as not meeting the guidelines for referral to the Minister; s 48B request (October 2007), ongoing.
4. Between December 2005 and July 2006, Mr X lodged ten BV applications. One application was refused, and the remainder were withdrawn as Mr X was unable to provide a surety of \$25,000.

Current immigration status

5. Mr X is an unlawful non-citizen currently detained at Villawood IDC.

Removal details

6. DIAC advises that Mr X is scheduled to be removed in December 2007.

Ombudsman consideration

7. DIAC's report to the Ombudsman under s 486N is dated 2 July 2007.
8. Ombudsman staff interviewed Mr X on 25 October 2007 at Villawood IDC.
9. Ombudsman staff sighted the following documents: an International Health and Medical Services (IHMS) medical summary report dated 1 June 2007, a Professional Support Services (PSS) psychology summary report dated 18 June 2007, and documents received during interview from Mr X on 25 October 2007.

Key issues

Health and welfare

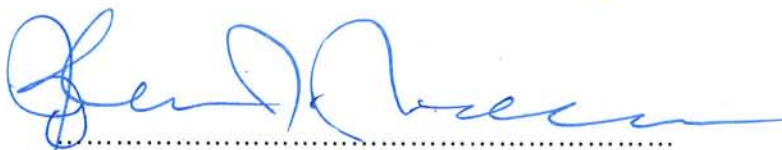
10. IHMS reported there were 'no significant health issues'. Mr X was to be monitored by the mental health team as a Mental State Examination had identified him as being stressed and having disturbed sleep, but the report also noted he was 'resistant to any therapy'. PSS noted that Mr X had been offered psychological counselling on four occasions in September 2006. He declined three offers and accepted the fourth but did not attend the appointment. DIAC advises that Mr X was placed on Suicide and Self Harm watch between 13 to 28 September 2006, after he threatened to self harm and reported suicidal ideation.
11. At interview with Ombudsman staff in October 2007, Mr X clarified his attitude towards PSS and IHMS staff by stating that he feared being returned to the PRC, did not trust the medical support within Villawood IDC, and was concerned that he could be removed without notice during a medical appointment. He also stated his disturbed sleep noted by IHMS was the result of his uncertainty about his circumstances. Mr X said that detention had affected him in other ways, such as memory lapses and deterioration in his sense of time.

Attitude to removal

12. Mr X stated during interview that he was persecuted for his membership of an underground church, and believes this will continue should he be returned. He claimed that his family continue to be asked about his whereabouts by local authorities.

Ombudsman assessment/recommendation

13. The Ombudsman notes Mr X has spent two years and four months in immigration detention, largely as a result of his unsuccessful pursuit of a PV and his applications to the Minister. The decision that Mr X does not qualify for protection by Australia has been reviewed and affirmed. The Ombudsman has no further comment to make on this matter.
14. The Ombudsman makes no recommendation in this report and notes that Mr X is scheduled for removal to the PRC.



Prof. John McMillan
Commonwealth and Immigration Ombudsman



Date