

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).

Name	Mr X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	2000009-O
Date of department's reports	3 June 2017 and 30 November 2017
Total days in detention	912 (at date of department's latest report)

Detention history

4 June 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.
8 August 2017	Transferred to Facility C.

Visa applications/case progression

Mr X arrived in Australia on 18 August 1995 on a visa.	
26 June 2014	Issued with a Notice of Intention to Consider Cancellation of his visa under s 501 following criminal convictions.
27 January 2015	Visa mandatorily cancelled under s 501.
23 February 2015	Mr X lodged a Request for Revocation of Cancellation. On 22 July 2016 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
26 August 2016	Applied to the Federal Circuit Court for judicial review. The proceedings were transferred to the Federal Court (FC) on 4 November 2016.
29 May 2017	The FC dismissed the matter and ordered that Mr X's application for judicial review be stood over until two weeks after the determination of the High Court (HC) in another matter. ¹
23 November 2017	The FC dismissed Mr X's application for judicial review of its decision on 29 May 2017.

Criminal history

June 2014	Convicted of three offences and sentenced to one year and eight months imprisonment for each sentence to be served concurrently.
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¹ *Falzon v Minister for Immigration and Border Protection* (S31 of 2017).

Health and welfare

International Health and Medical Services advised that Mr X reported acute abdominal pain associated with gallstones. He underwent surgery in April 2016 to remove his gallbladder with no further episodes of pain recorded.

Mr X also received treatment for gastrological concerns, migraines and a knee injury. He was reviewed by specialists as required.

17 October 2016 –
13 April 2016

Incident Reports recorded that Mr X was transported to hospital after presenting with pain associated with gallstones on five occasions.

Other matters

Mr X's mother, step-father, sister and niece reside in Australia.

Case status

Mr X was detained on 4 June 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 visa was cancelled under s 501 on 27 January 2015 and on 22 July 2016 the Minister decided not to revoke the decision to cancel Mr X's visa.

On 29 May 2017 the FC dismissed Mr X's application for judicial review and ordered that the matter be stood over until two weeks after the determination of the HC in another matter.

At the time of the Department of Home Affairs' latest report Mr X was awaiting the outcome of the HC matter.