



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: HU/03684/2020

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 4<sup>th</sup> November 2024**

**Before**

**UPPER TRIBUNAL JUDGE BRUCE**  
**UPPER TRIBUNAL JUDGE RASTOGI**

**Between**

**Mr Oluwatobi Adedayo Adegboyega**  
**(no anonymity order made)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellants: Mr Oluwanle, Del and Co Solicitors  
For the Respondent: Ms Nwachukwu, Senior Home Office Presenting Officer

**Heard at Field House on 20<sup>th</sup> August and 2<sup>nd</sup> October 2024**

**DECISION AND REASONS**

1. The Appellant is a Nigerian national born on the 13<sup>th</sup> November 1980. He seeks leave to remain in the United Kingdom on human rights grounds.
2. The Appellant claims to have arrived in the UK sometime in 2005 on a visit visa which was valid until July of that year. He did not return to Nigeria at the end of that visit. He states that he overstayed and established a life for himself in the UK. In 2015 and 2016 he attempted

to regularise his position, unsuccessfully. In 2019 he then made an application for leave to remain on Article 8 grounds, contending that his period of unlawful residence notwithstanding, it would be a disproportionate interference with his family and private life if he were not to be granted leave. The Home Office refused and the Appellant appealed to the First-tier Tribunal.

3. His appeal was dismissed by First-tier Tribunal Judge K.R Moore in a written decision dated the 16<sup>th</sup> November 2021. When considering the Appellant's private life, Judge Moore applied the test in what was then paragraph 276ADE(1)(vi) of the Immigration Rules. It was found that as an intelligent and resourceful man who had grown up in Nigeria, the Appellant could not meet the test therein to show that there were 'very significant obstacles to his integration' in that country. In respect of his family life it was not in issue that the Appellant is in a genuine relationship with his British partner, nor that she earned well above the income level required to maintain him without recourse to public funds. He could not however meet the 'relationship requirements' in Appendix FM because he is an overstayer. The only way he could succeed on this ground would be to show that paragraph EX1 of Appendix FM applied: he needed to show that there were 'insurmountable obstacles' to that family life continuing in Nigeria. Judge Moore rejected the submission that the Appellant's wife having to give up her well paid job here amounted to such an obstacle. Finally, in considering Article 8 'outside of the rules', Judge Moore found the refusal to be proportionate and justified.
4. The Appellant appealed to the Upper Tribunal and on the 15<sup>th</sup> August 2022 Upper Tribunal Judge Allen handed down a written decision in which he found that the First-tier Tribunal had, at least partially, erred in its approach. There was nothing wrong with Judge Moore's conclusions on paragraph 276ADE or Appendix FM. The one area where Judge Allen was satisfied that First-tier Tribunal Moore had erred was in respect of the weight to be attached to the public interest in refusing the Appellant leave under Article 8 'outside of the rules'.
5. An important facet of the Appellant's claim was that he had founded a successful evangelical church in London known as the Salvation Proclaimers Anointed Church, or 'SPAC Nation'. As Pastor of that church he had played a significant role in the lives of his congregation, and specifically in combating youth violence and promoting social justice. In his consideration of that evidence Judge Moore did not accept that the church would fold without the Appellant; his decision did not however indicate one way or the other what conclusions, if any, were drawn from the Appellant's assertions that he personally played a significant role in leading young members of the church away from involvement in gangs. On appeal Judge Allen was concerned that in conducting the proportionality balancing exercise under Article 8 Judge Moore had failed to consider whether the Appellant's claimed 'good works' reduced the public interest in refusing him leave : see for instance UE (Nigeria) v Secretary of State for the Home Department [2010] EWCA Civ 975.
6. Judge Allen directed that this narrow issue be resolved following a further hearing in the Upper Tribunal. Unfortunately an administrative error in the Tribunal resulted in the appeal being wrongly classified as finally determined and the file was sent to storage. It was not until a query from the Home Office on the 14<sup>th</sup> June 2024 prompted investigation that the error was discovered. The matter was immediately relisted. Since Judge Allen has now retired, Principal Resident Judge Blum signed a transfer order and this is how the matter came before this Tribunal.

7. At the outset of the hearing on the 20<sup>th</sup> August 2024 we clarified the scope of our re-making. The findings that were undisturbed by Judge Allen are to stand. Our task is to determine the extent to which the Appellant has positively contributed to UK society, the extent to which that work might reduce the public interest in refusing to grant him leave to remain, and ultimately to balance the strength of the Appellant's family and private life in the UK against the public interest in refusing leave to persons who do not qualify under the Rules. We heard at that hearing extensive evidence from the Appellant and submissions from the parties.
8. We reserved our decision, subject to one matter. In cross-examination Ms Nwachukwu had put to the Appellant the assertion that his church was subject to ongoing investigation by the Charity Commission. The Appellant accepted that investigations had been conducted in the past, but asserted that all investigations had been concluded, and that no further action was being taken: he stated that a letter from the Charity Commission to this effect was in his possession, but he had not brought it with him to the hearing because he did not appreciate that this might be an issue. We found that in the circumstances it would be in the interests of justice to permit the Appellant to adduce that letter post hearing and gave oral directions to that effect.
9. At 21.57 on the 28<sup>th</sup> August 2024 the Appellant's representatives sent an email to Judge Bruce and Ms Nwachukwu containing a large number of attachments. These included further written evidence by witnesses, photographs and videos. Many of the attachments could not be opened. There was a set of written submissions, and a link to a report published by the Charity Commission on the 22<sup>nd</sup> August 2024. Insofar as the Tribunal was able to determine, the material did not include the letter referred to by the Appellant in response to Ms Nwachukwu's challenge. For reasons we explain below, we concluded that this failure to comply with our directions necessitated a further hearing.
10. The hearing resumed briefly on the 2<sup>nd</sup> October 2024. Mr Oluwanle handed up a letter from the Charity Commission dated the 12<sup>th</sup> June 2024. It is addressed to the Appellant's brother Dapo Adegboyega. Mr Oluwanle informed us that this is the letter to which the Appellant had referred in his evidence; he explained that he had not provided it in response to our directions because he thought it would be better to simply supply us with the report to which it referred. We admitted that letter into the evidence, along with the Charity Commission report into SPAC Nation dated the 22<sup>nd</sup> August 2025. We did not admit any of the other evidence attached to Mr Oluwanle's email of the 28<sup>th</sup> August 2024. He did not have permission to adduce any of it, and there was no reason why it could not have been adduced prior to the hearing on the 20<sup>th</sup> August 2024 in compliance with the standard directions. Accordingly we have also disregarded the written submissions, relating to that new material, drafted by Ms Nwachukwu and submitted before she was made aware that we were recalling the matter for further hearing.

## **The Law**

11. We were referred to three cases in which the courts have considered the potential relevance, in the context of an Article 8 balancing exercise, of an individual having made a contribution to British society. In UE (Nigeria) [2010] EWCA Civ 975 the Court of Appeal concluded that as a matter of principle it could be a matter to be taken into account, in that it could potentially diminish the weight to be attached to the public interest in the individual's removal. In R (on the application of Zermani) [2015] EWHC 1226 (Admin) Deputy High

Court Judge HHJ Worster quashed a decision of the Home Office on the grounds that the decision maker had failed to apply that principle in the case of a reformed criminal who had become a community activist and had received powerful support from various organisations which he supported.

12. Of the three cases, it is perhaps Thakrar (Cart JR; Art 8; value to community) [2018] UKUT 336 (IAC) that is the most illuminating. The then President of the Tribunal Mr Justice Lane was asked to reduce the weight to be attached to the public interest in refusing leave to a widow whose British family members were “overwhelming net contributors” to the UK economy, it being suggested that Mrs Thakrar’s family would rather move with her than let her return to Kenya alone. Lane J reviewed the jurisprudence, including the decisions underpinning the reasoning in UE (Nigeria): R v Immigration Appeal Tribunal ex parte Bakhtaur Singh [1986] Imm AR 352 and RU (Sri Lanka) v Secretary of State for the Home Department [2008] EWCA Civ 753. He came to the following conclusions, expressed in the headnote:

*(2) Before concluding that submissions regarding the positive contribution made by an individual fall to be taken into account, for the purposes of Article 8(2) of the ECHR, as diminishing the importance to be given to immigration controls, a judge must be satisfied that the contribution is very significant. In practice, this is likely to arise only where the matter is one over which there can be no real disagreement. One touchstone for determining this is to ask whether the removal of the person concerned would lead to an irreplaceable loss to the community of the United Kingdom or to a significant element of it.*

*(3) The fact that a person makes a substantial contribution to the United Kingdom economy cannot, without more, constitute a factor that diminishes the importance to be given to immigration controls, when determining the Article 8 position of that person or a member of his or her family.*

*(4) If judicial restraint is not properly maintained in this area, there is a danger that the public’s perception of human rights law will be significantly damaged.*

13. These are the principles that we are going to apply in this case. In his submissions Mr Olunwanle suggested that we should “prefer” the judgment of the Court of Appeal in UE (Nigeria) over that of Lane J. We find nothing to prefer. Lane J has simply distilled the principles drawn from all three of the cases he mentions. We find nothing in his judgment inconsistent with the view expressed by Sir David Keene LJ at paragraph 36 of UE: “while this factor of public value can be relevant in the way which I have described, I would expect it to make a difference to the outcome of immigration cases only in a relatively few instances where the positive contribution to this country is very significant”.

### **The Parties’ Cases**

14. On remaking the case for the Appellant is that he is the charismatic leader of a large, well organised church in London called ‘SPAC Nation’ which has become famous for its work in the community. He contends, for instance, that he has played an instrumental role in setting up a foodbank which has to date provide 136,000 meals for children; he has intervened in the lives of many hundreds of young people, predominantly from the black communities in London, to lead them away from trouble. He understands that if you are to lead a young

person away from involvement in drug gangs you must give them an alternative source of income. To that end he has set up various ventures including a recording studio, and has established a series of 'Community Interest Companies' ('CIC's) throughout the capital to support young entrepreneurs. He has funded and mentored a number of students to get into prestigious universities including Oxford and Harvard and set many others on the path to fulfilling careers; more recently he has launched a project to encourage black students into STEM subjects under the auspices of Imperial College, University of London. He has established a network of safe houses throughout London where he can accommodate young people trying to avoid gang conflict. His work has been supported and lauded by politicians including Boris Johnson and by senior figures within the Metropolitan Police. It is submitted that this extraordinary contribution to the life of the UK is the kind of thing that Lane J had in mind in Thakrar. It is the Appellant's case that without his personal presence in London these projects would either fall apart or reduce in size and efficacy. This means that the weight to be attached to the public interest in refusing him leave is reduced, so that balanced against the Appellant's family life and long residence in the UK, it is those rights which prevail.

15. The Respondent does not take issue with the Appellant's claim to be a community activist. She accepts that the Appellant has, for instance, been involved in rehabilitation work with young gang members. She contends however that all is not as it seems. Various manifestations of the Appellant's church have been closed down, by either the Charity Commission or the High Court, because of concerns over its finances and lack of transparency. Former members of the church have alleged that it is a cult, in which impoverished young people are encouraged to do anything they can to donate money, including taking out large loans, committing benefit fraud and even selling their own blood. It is alleged that the church leadership lead lavish lifestyles and there have, it is said, been instances of abuse. The Respondent's case before us was that all of this needs to be taken into account when evaluating whether the Appellant is in fact of real value to the UK. The Respondent further submits that the Appellant has exaggerated his success, and the personal role he has played. She contends that the Appellant has failed to demonstrate that SPAC Nation needs him to be in the UK to continue in its work. The Respondent disputes the Appellant's claimed date of arrival in 2005 and puts him to proof in respect of his continuity of residence between 2005 and 2015. The Respondent asks us to place significant weight on the public interest in refusing leave to people who do not meet the requirements of the rules, and submits that the Appellant has failed to demonstrate that it would in any way be disproportionate to expect him to return to Nigeria and make an application through the proper channels, ie by making an application under Appendix FM for leave to enter as a partner.

### **The Evidence**

16. The Respondent's bundle contains a number of letters in support of the Appellant written in 2019. Bernadette Khan, the Mayor of Croydon, writes of his "well documented" work with young people, and his "invaluable contribution" in driving change; London Assembly Member Steve O'Connell writes that SPAC Nation has been "instrumental in the drive against youth violence in London" and that the Appellant's "personal contribution to mentoring and supporting troubled young youth in our area has been enormous"; Reverend Canon Yemi Adedeji of the Evangelical Alliance UK says of the Appellant that he is "transforming the forgotten"; Shadia Dougan of the Connect Community in Croydon

explains how the Appellant has supported their organisation by helping to raise money and developing a recruitment agency to help young people into work; 'Elite Community' states that the Appellant has assisted another Pastor in Islington in helping young people in the borough; Pastor Damian Luke of the Tabernacle of Praise writes that he has worked with the Appellant in Croydon since 2014 and that the Appellant has managed to turn many young people away from crime and back into good citizens; Reverend Nims Obunge MBE DL explains how he met the Appellant through his role as a member of the Violent Crime Prevention Board. The Appellant was able to mobilise 500 young people to assist with a crime prevention programme that Reverend Obunge was involved with, and to his knowledge SPAC Nation has secured the surrender of numerous dangerous weapons.

17. The Respondent's bundle also contains a number of testimonials from young people themselves, submitted in support of the Appellant's application in 2019. GA of Tottenham describes how he was exposed to crime from the age of 13 when he joined a gang headed by his cousin. GA states that although he has never been convicted, he has committed multiple crimes. He started carrying weapons at the age of 14, and by the time he was 18 he was the "go-to guy for payback" against rival gangs. He admits to carrying a gun, to shooting at people and committing numerous robberies and frauds. GA writes that his first real encounter with SPAC Nation was at a service for the death of a friend. He became aware that members of a rival gang from Wood Green attended these services, and so came armed with a knife, which he left in his car outside the venue. When he arrived he saw that these men were indeed there and so called for back up from his own side. However when the Appellant got up to speak, GA found that his "words were hitting home". He subsequently had a one-on-one meeting with the Appellant, who encouraged him to get rid of any drugs, knives, guns etc. This was the beginning of what GA describes as a personal transformation. He left the gang and at the time that he wrote his letter, he was working for one of SPAC Nations' "in-house businesses".
18. SA is from the other side of London but tells a similar story. He writes that he was heavily involved in gangs between 2002 and 2008; he committed numerous offences including multiple stabbings and armed robberies. He served a number of prison sentences. In 2010, days away from his release from a Young Offenders Institution, his mother introduced him to the Appellant. SA writes that the Appellant turned him away from his life of crime, and that he did not look back. He describes the Appellant as a "dominant father figure" in his life who helped him to the position that he held at the date he wrote his letter: the lead co-ordinator for an apprenticeship provider in the City of London. He has reconnected with his family and has never committed another crime. SA believes that it would have been "virtually impossible" for him to have been turned round in this way without the intervention of the Appellant.
19. KY describes himself as a "former gang leader" from the East End of London. At the date that he wrote his letter in May 2019 he had been to prison 7 times, but a chance encounter led to his life being transformed. Shortly after completing his last sentence he attended a service [we presume a SPAC Nation service] with the specific intention of attacking a rival who was in attendance. He was "annoyed" by the Appellant, who was preaching, but slowly this drew his attention. He started actually listening, and by the end of the service he had lost the will to carry out the assault he had come there to commit. KY writes "I can categorically say that if I had not met Pastor Tobi I would either be in jail, dead or still be causing mayhem on the streets of London". KY now works in the East End trying to mediate peace between rival gangs there. He featured in the BBC documentary "Escaping Gangs: death, jail or redemption". He concludes his statement by saying "I can categorically say that there is no

one else doing this work that has the ability to reach people like myself other than (the Appellant)".

20. CC is another ex-offender who writes that his life was turned around by the Appellant. He got out of prison in 2016 having made connections inside which he intended to use to take himself to the "next level" of criminal activity. He was homeless and sofa-surfing when he met the Appellant. After he was introduced by a friend, the Appellant invited him into his own home without question and told him not to worry about bills, food or rent – he would cover everything until he got back on his feet. CC believes that if it were not for the Appellant he would be dead, in jail or still a high risk to others. PT was similarly assisted by the Appellant and SPAC Nation. He describes a childhood of violence and poverty before being rescued by them: the Appellant accommodated him and introduced him to boxer Chris Eubank who offered him mentoring. PT turned his life around and became a youth leader supporting others to contribute positively to society.
21. The final letter in the Respondent's bundle is from a young woman named Ms JE, who describes a childhood of neglect and abuse culminating in her finding herself alone and a mother herself at 15. JE describes living in "absolute dirt" when the Appellant secured safe accommodation for her and her baby and set her on a path of contributing positively to society. JE writes that she has stood for election as a local councillor and is now a peer educator in various schools around London educating other girls about teenage pregnancy.
22. Some of the assertions in this written evidence are supported by news articles covering the work of SPAC Nation. Some are from Christian news websites which have reported on SPAC Nation initiatives to combat knife crime in London. The Sun on Sunday also featured this work as part of its 'Beat the Blades' campaign. In February 2018 the BBC website ran a piece about an item on the Victoria Derbyshire programme about how SPAC Nation encourages guns and knives to be left at the altar during services, and in April 2018 the Sutton and Croydon Guardian reported on a 'Peace March' organised by SPAC Nation in South London.
23. The Appellant himself has signed three witness statements, dated the 20<sup>th</sup> September 2021, 20<sup>th</sup> September 2021 and the 20<sup>th</sup> August 2024. He adopted these statements and gave further oral evidence before us. He states that he lives with his partner, Mary Olubukola Alade, who earns £100,000 per year working for AON. He spends his time working for the church, for which he is unpaid. He is entirely supported by Mary. He has a first-class law degree from Nigeria but he has "sacrificed [his] legal career to help those who cannot help themselves". He was motivated to start this work soon after he arrived in the UK because it was in the aftermath of the killing of Damilola Taylor, who had been a friend of the Appellant's cousin. He was staying in Peckham and he was shocked at the level of violence in the community so he felt the need to stay and try and save some of these youth.
24. In his statements he explains some of the projects that he is involved with. They have set up safe houses throughout London to house young people who have nowhere safe to live. Before the pandemic there were 10 of these, but post-Covid it went up to 28. They employ a team of 6 clinical psychologists who offer young people therapy. The church operates the largest foodbank in London which has to date provided 136,000 meals for the needy. He established 'Basketball Nation' a CIC dedicated to supporting young people who have encountered the criminal justice system. In 2015 he established 'Elite Community' a CIC to empower young women through mentoring. He has been involved in establishing a large

number of these community based organisations with the aim of providing a purpose to the young people who work for them.

25. As to his particular role the Appellant stresses how important he is personally to the work of SPAC Nation. He writes that he has tried to get others involved in coordinating the work but he is the “brain behind the organisation”. In oral evidence he gave some examples of this. He started a recording studio to employ young people who are interested in pursuing careers in music, and on two occasions when he has tried to hand this over to others to run, it has started failing. He therefore needed to get back involved. He also had recent success in organising a large football tournament: “I managed to organise 5000 spectators and 42 teams in a week. No one else can do this. The young man in the winning team still had a tag on his leg. After that both Arsenal and Chelsea academies expressed an interest in him”. It was the Appellant’s personal contacts and energy which made this possible. In his first witness statement he similarly stresses his personal relationship with the young people involved in SPAC Nation, asserting that “some of the members could turn to terrorism if not carefully mentored and monitored in the unique way I approach each case”. He also said that after SPAC Nation were “driven out” of Croydon by the local MP (a matter to which we return below) knife crime rose in the area by 50%. We were shown a short video showcasing some of the Appellant’s most recent projects. These included two marches to Downing Street, one by women and one by men from the church, and launching a ‘STEM Think Tank’ at Imperial College, University of London for BAME students. In his oral evidence the Appellant clarified that he had been invited to Imperial by students there who knew him from SPAC Nation – it was the students who had established this working group and he had been invited to speak at their launch event.
26. The Appellant stressed that it is particularly in the role of mediator that he is most needed by SPAC Nation. He states that he has an ability to connect with young gang members that others do not. 90% of the congregation in the church are young people. If he does not attend a service for whatever reason, people will start to leave and not stay for the service. People come to see him. They are inspired by him. He is able to persuade these youngsters, in particular gang members, to lay down their weapons and join the church together. For instance in 2016 he managed to avert a war between rival gangs in Wood Green and Tottenham by having them together at the same service. He went out onto the streets and engaged with the leaders and got them to take the stage together. Asked what the impact would be on the UK if he were to return to Nigeria the Appellant said it would be “like the impact on Croydon” when he left – crime would immediately rise again. As he put it: “the boys on the street will go back to the street if I am not there”. In his most recent witness statement he maintains that “thousands of young people, families and communities rely on the support and guidance that I provide”. Alluding to the riots that took place over the summer in the UK he further says this: “in view of the recent fascist uprising, my presence is needed to calm the nerves of people from ethnic minorities”.
27. He denied that he would be able to continue to lead this work via social media if he were required to return to Nigeria. He said that his work takes place in real life and that people don’t come to him because of social media. Its because he rolls up his sleeves and gets on with it. He did not accept Ms Nwachukwu’s suggestion that he is well known on social media in both this country and Nigeria, and that this is an important part of his profile.
28. The Tribunal asked the Appellant to clarify how he manages all this work day to day. He explained that he plans to attend up to 6 church events or services per day, but sometimes he runs late and is unable to get to all of them. This is because he is very often called upon to sit



and talk to an individual who approaches him after he has spoken, and he might end up speaking to such a young person for 3 -4 hours about their lives. It is this kind of personal intervention that is so important to his work. The Appellant also visits approximately 20 congregants in their homes per week. Many of the projects take time, patience and personal contacts to pull together. For instance the football tournament took many weeks of organising. You can't just pull something like that off - you need to invest the time: "you do your rounds - your legwork". He has supported young people to open 142 businesses and very often these need his encouragement and guidance as well.

29. Asked in cross examination to clarify who lives in his home the Appellant said that at one time there were about 40 young people. Now there is "about 10" people living there. The Appellant - or rather Mary- provides for all of them. It's a 4 bedroomed property that she rents in Kingston.
30. The Appellant states that this community work has been recognized by the police, the government, by the office of the London Mayor, by Croydon Council, and the Home Office working committee. The Appellant states that he has chaired the Home Office committee on knife crime, and that he has visited Downing Street on "countless occasions". He writes that his leadership is unique and that "senior police officers would attest to the fact that I am an absolute necessity to their fight against crime".
31. In respect of the criticisms made of SPAC Nation the Appellant emphasises that no one has ever faced criminal charges and that in his view these allegations are made by people who do not know how the organisation is run. He states that the Metropolitan Police have cleared him, and SPAC Nation, of any wrongdoing. He believes that many of the attacks on him are politically motivated, In particular the Labour MP in Croydon, who has been very critical of SPAC Nation, felt "threatened" by church members who were supporting the Conservative Party and so he wanted to get rid of them. The allegations that the church is a cult are unfounded. Cults operate in secret: SPAC Nation is entirely open. All services are broadcast live "on 3-4 major public social media platforms: Facebook, Instagram, Twitter, Periscope etc". The Appellant emphasised in his December 2021 witness statement that he has been thoroughly open with the media, for instance with the BBC when they made a number of films about him and with Sky News which broadcast for several days from one of their safehouses. The Appellant states that these documentaries have been seen by over 10 million people. In that same witness statement the Appellant criticises the BBC for one documentary they made which was critical of the organisation - from the context, we understand this to be an episode of Panorama which accused the church of exploiting young congregants for financial gain. The Appellant states that he has appended an "email chain and apology" from the BBC: the same descriptor appears in the index to the bundle. In fact the letter in question contains no apology. It is a letter from BBC Northern Ireland explaining that they are unconnected to Panorama, and that they had been unable to prevent the Panorama team using some footage that had been shot by BBC Northern Ireland.
32. In his oral evidence the Appellant addressed allegations that he has personally gained by his involvement in the church. For instance people have pointed to the fact that he wears designer clothing and drives expensive cars. He was adamant that all of his personal possessions have been paid for by Mary. He has never taken a penny from the church. He believes that it is important for him to dress the way that he does because he needs to inspire these young people - they need to understand that there are legitimate ways of making money, for instance through entrepreneurship.

33. The Appellant acknowledged in his witness statements that SPAC Nation have been investigated by the Charity Commission. This matter was the subject of close cross examination by Ms Nwachukwu. He explained that although the Commission “recognised our work in the community, they had a disagreement with our accounting system”. The Appellant explained that “a typical church gets tithes and offerings. We operate differently”. SPAC Nation propose a programme for the year and set up local entities to drive that goal, for instance the establishment of a safe house. Those local groups then fundraise independently. The Charity Commission were unhappy with that as they were unable to see clearly where the funds were coming from. They wanted a central bank account but the banks refused to open one for SPAC Nation. At one time the church did have bank accounts but these were closed down and no reasons given. When church leaders subsequently tried to open accounts in the church name they were repeatedly turned down. They had a “huge public argument” with Barclays because of this. SPAC Nation members felt it was because they were young and black.
34. In her cross examination on the 20<sup>th</sup> August 2024 Ms Nwachukwa put it to the Appellant that the SPAC Nation had been closed down as a result of investigations by the Charity Commission and others. We were directed to an article published on the BBC website in June 2022 in which it was reported that the organisation had been declared insolvent. Ms Nwachukwu had also obtained a print out from Companies House. The Appellant agreed that a previous manifestation of the church had been closed down following a hearing in the High Court, but that they are now operating under the name of SPAC Nation Ltd. He maintained that the Charity Commission had now closed all enquiries into its finances. He stated that he has a letter to this effect and that “a thorough check of the correspondence” will reveal no finding of wrongdoing. As we note in the introduction to this decision, in fact no such letter appeared in the Appellant’s bundle. The only correspondence we could find was an email from the Charity Commission dated the 20<sup>th</sup> November 2019 stating that no further action would be taken in respect of a SPAC Pastor standing for political office, and an accusation that SPAC members had campaigned on her behalf. Given that this was an issue which arose in cross-examination, we gave the Appellant permission to provide a copy of this letter after the hearing.
35. The letter is dated 12<sup>th</sup> June 2024 and is addressed to the Appellant’s brother, Reverend Dapo Adegboyega. It states that the Commission is in the concluding stages of its statutory inquiry into SPAC Nation, and serves as a covering letter to a confidential draft of the final report. It invites Dapo Adegboyega to read and comment on the report, should he wish to do so.
36. The report itself was published on the 22<sup>nd</sup> August 2024. It does not mention the Appellant personally. Its central findings are summarised as follows:

*“The Commission concluded that there had been serious misconduct and/or mismanagement in the administration of the charity which was sustained over a substantial period of time. The trustees failed to act with reasonable care and skill, including while the statutory inquiry was open. The trustees repeatedly failed to address the Commission’s regulatory concerns, in particular in relation to its operating in cash.*

*The charity’s safeguarding practices were inadequate – for example there was a lack of trustee oversight and reporting – which placed the charity’s beneficiaries at risk. The charity did investigate the one safeguarding complaint it received directly and attempted unsuccessfully to engage with those making allegations in the media.*

*However, particularly given the nature of concerns raised in the media, the trustees should have considered if they could do more to strengthen the charity's safeguarding practices and compliance with its policies and procedures.*

*The way in which the charity operated was highly unusual and placed its charitable assets, including its reputation, at considerable risk. The charity's financial record keeping was inadequate, including for payments that could have posed a reputational risk to the charity.*

*The trustees failed to discharge their trustee duties under charity law and their director duties under company law which resulted in the Insolvency Service applying for a petition for a public interest winding up, which was granted. The charity had been mismanaged to such an extent that another regulator had to take steps to wind it up".*

37. For the Respondent we were provided with two additional articles about SPAC Nation. The BBC and Independent both reported in June 2022 that various former members of the church had alleged financial exploitation and fraud – accusations taken up by Steve Reed MP in parliament – but that the Metropolitan Police had dropped the investigation. The Insolvency Service had found no accounting records which could support the church's claimed £1.87 million in expenditure, and its Chief Investigator had concluded that the church was operating with a "lack of transparency". This had resulted in an order in the High Court closing the church down and a declaration of insolvency.

### **Our Findings**

38. We remind ourselves of our task. Pursuant to the decision of Upper Tribunal Judge Allen we are first asked to evaluate the Appellant's contribution to life in the UK, and to determine to what extent, if any, that contribution reduces the weight to be attached to the public interest in refusing him leave to remain on Article 8 grounds. In undertaking that assessment we must be guided by the operative law, as set out by Lane J in Thakrar. We remind ourselves that we must be satisfied that the contribution is "very significant", and that in practice this is likely to arise only where the matter is one over which there can be no real disagreement. One touchstone for determining this is to ask whether the removal of the Appellant would lead to an irreplaceable loss to the community of the United Kingdom or to a significant element of it.
39. Once we have established the extent of the contribution made by the Appellant we must then conduct an overall evaluation of the Appellant's family and private life in the UK, and balance this against the public interest in refusing leave to someone who is unable to meet the requirements of the immigration rules.
40. It should be noted that for legal and operational reasons the organisation with which the Appellant is involved has had several names and incarnations. Herein we simply use the umbrella term 'SPAC Nation' because we are satisfied that for the purpose of this appeal any legal distinctions are not relevant.

*The Appellant's Contribution*

41. The Secretary of State accepts much of what the Appellant has to say. It does not appear to be contested that the Appellant played a pivotal role in the establishment of SPAC Nation; it is accepted that he is regarded as senior pastor in the church and that he has been involved in its charity activities and work in the community in London. Those agreed matters are our starting point. We see no reason to reject the evidence generally about the charitable endeavours of SPAC Nation, namely that it runs a foodbank in London, that it operates a series of 'safehouses' and that it supports its members in starting up their own businesses or in otherwise legitimately earning a living for themselves. We accept that the church has endeavoured to lead young congregants away from crime, and gangs in particular, and that it has, in individual cases, been successful in doing so.
42. We have read with care the personal testimonials of young people who took the time to write to the Home Office in support of the Appellant's human rights claim back in 2021 [summarised at our §17-21 above]. Although there is ordinarily a limit that can be placed on evidence that is not tested, and evidence which is relatively old, we note that Ms Nwachukwu did not make any submissions about these letters and statements, and we are prepared to treat them at face value as reflecting the genuine feelings and beliefs of the authors at the time that they were written. The witnesses all testify to the Appellant having played an important role in their lives, to him having turned them away from crime, drugs and anti-social behaviour. It is obvious that his preaching, and his personal intervention, meant a great deal to them. We further accept that the Appellant and his partner have, as detailed by these witnesses, opened the doors to their own home and accommodated vulnerable young people at various stages over the years.
43. Likewise we are prepared to accept that the supportive letters from various community leaders [§16 above] are an honest reflection of the writer's belief about the Appellant, his importance to the community, and the work that he has undertaken with SPAC Nation. We do not doubt that over the years he has impressed a lot of people. We do however note the absence of corroborative evidence in respect of the most prominent agencies that the Appellant claims as his supporters. There was nothing before us from the Metropolitan Police, Downing Street, the Mayor of London or the Home Office, all institutions which the Appellant claims to have enthusiastically endorsed his work.
44. The absence of any supporting evidence from the Metropolitan Police is particularly striking given the Appellant's claim that "senior police officers would attest to the fact that I am an absolute necessity to their fight against crime". No such attestation was before us, and it is in that context that we evaluate what was the central plank of Appellant's case, that he, personally, has been instrumental in preventing gang warfare and knife crime in the capital. As we have said, we have accepted the individual testimonies of witnesses who aver that they left lives of criminality with the Appellant's help. Beyond those few cases it has not been possible for us to reach any positive conclusions about the impact that he may have had more widely. In his oral evidence he repeatedly claimed that when he was "driven out" of Croydon, the knife crime in the area rose by 50%. As evidence of this claim Mr Olunwanle attempted to rely on an article which covered, in general terms, the fact that knife crime in Croydon is high. This article nowhere mentioned the Appellant or SPAC Nation; nor did it offer any comparative data over a period of time. As such it was of no assistance at all in establishing whether there was in fact a 50% rise in knife crime in Croydon after the Appellant ceased his operations in the borough, or if there was, whether that can be attributed to his absence.

45. This unevidenced claim about Croydon was characteristic of the Appellant's evidence overall, which we found, in many instances, to be hyperbolic. For instance there was nothing at all to support his assertions that his presence in London is needed to "calm the nerves of people from ethnic minorities" following the "fascist uprising" of August 2024, or that his presence is an "absolute necessity" to fighting crime. There was no corroboration for his claim to have visited Downing Street on "countless occasions". These are examples of areas of the Appellant's evidence where we are satisfied that he has sought to grossly inflate his influence. This tendency can also be seen in areas of the evidence that were more particularised. In his live evidence the Appellant repeatedly referred to having single-handedly recently organised a huge football tournament: "I managed to organise 5000 spectators and 42 teams in a week. No one else can do this". We were told that the Appellant had "launched" a STEM think tank for students from ethnic minorities at Imperial College. These statements were no doubt intended to convey an impression of the wide reach of the Appellant's activities, and crucially, to his *personal* involvement in their organisation. In fact, as he later acknowledged, the football tournament had taken many weeks of legwork, and the STEM project was actually organised by the students, who had simply invited him to speak at their opening event.
46. When we asked him to describe an average day the Appellant told us that he schedules 6 church events per day, seven days a week. These can be all over London. He visits as many as 20 congregants per week in their own homes, and is often called upon to spend between 3-4 hours talking on a one-to-one basis to a troubled young person. He also told us about the time that he spends supervising and helping some of the many business ventures, or 'CIC's set up with SPAC Nation's help, and to organising the foodbank. Even allowing for his admission that sometimes this packed itinerary causes him to run late, we find it to be implausible that he has the time to undertake all of this work personally. We consider it far more likely that this work is distributed amongst the many pastors, congregants and supporters of SPAC Nation.
47. Drawing all of this together we accept that whatever else it is, SPAC Nation is a large and well organised group, which has obviously delivered a range of benefits to its congregants, supporters, and more widely to young people from marginalised communities. We are satisfied that the Appellant has played a role in that. We are however unable to accept his assertions that his presence is vital for the continuation of this work. The evidence before us indicates that SPAC Nation delivers or supports a wide range of community initiatives and like Judge Moore, we are wholly satisfied that this work will continue regardless of whether the Appellant is playing a part in it. Presumably the people who contribute financially do not do so for the benefit of the Appellant; they give because they want to support the work. Similarly the people who are out on the streets of London delivering food parcels are doing so because they wish to help those in need in their community, not because they are in thrall to the Appellant. As he himself would have it, this is a church, not a cult. We are not satisfied that the good work that SPAC Nation undertakes generally would collapse or even significantly suffer should the Appellant be required to leave the UK.
48. As we note above, we are satisfied that there are individuals for whom the Appellant has been a significant source of moral and financial support, and we have attached weight to the positive influence that he has brought to these young people's lives. We are however unable to accept that he is the only person in the church who could effect such interventions, or that the support he has offered to these individuals amounts to a "very significant" contribution of the sort Lane J has in mind in Thakrar.

49. It follows that we need say very little about the Charity Commission report, save to say that it clearly identifies very serious failings in the management of SPAC Nation. It simply serves to underline that the Appellant's activities, and the extent to which they may have been said to amount to a significant contribution, are not matters over "which there can be no real disagreement".
50. We have not found it necessary to investigate or consider the various allegations that have been publicly made against SPAC Nation by former members, the MP for Croydon, or BBC Panorama amongst others. We were provided with very limited evidence in this regard, and we have not given it any weight in our overall assessment.
51. Accordingly we are not satisfied that the Appellant's charitable work in the UK is such that the public interest in refusing him leave is diminished.

### *Proportionality*

52. We proceed directly to consideration of proportionality, it being agreed that the Appellant does enjoy Article 8(1) rights in the UK and that the refusal of leave would amount to an interference with those rights, since a consequence of that decision would be that he must return to Nigeria.
53. In respect of the Appellant's family life it was the finding of Judge Moore that there are not insurmountable obstacles to the Appellant continuing his family life with Mary in Nigeria. That finding is undisturbed, and it is one with which we agree. The Appellant cannot therefore meet the requirements of Appendix FM relating to leave to remain as a partner. It was further the finding of Judge Moore that the Appellant has not demonstrated that there would be very significant obstacles to his integration in Nigeria, and again that is an undisturbed finding with which we agree. The Appellant is unable to meet the requirements of the rules relating to 'private life' claims. The maintenance of effective immigration controls is in the public interest, and this failure to meet the requirements of the rules is therefore a matter which weighs against the Appellant: s117B(1) Nationality Immigration and Asylum Act 2002 applied.
54. Section 117B(2) NIAA 2002 states that it is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English are less of a burden on taxpayers, and are better able to integrate into society. We are satisfied that the Appellant speaks fluent English, and so this is not a matter that can be weighed against him.
55. It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such person are not a burden on taxpayers, and are better able to integrate into society: see s117B(3) NIAA 2002. The Appellant himself avers that he has never had paid employment in the UK, and that he has never benefitted financially from his relationship with SPAC Nation. He is entirely reliant on Mary for funds. In line with the decision in Rhuppiah v Secretary of State for the Home Department [2018] UKSC 58 we are satisfied that Mary's support means that the Appellant is "not financially dependent upon the state" and that this particular public interest consideration is not therefore one that should weigh against him.

56. Section 117B(4) NIAA 2002 mandates that little weight should be given to a private life, or a relationship formed with a qualifying partner that is established by a person at a time when the person is in the United Kingdom unlawfully. It is not in issue that the Appellant has been in the UK unlawfully for almost the entire period of his residence. He embarked on his relationship with Mary, and established SPAC Nation, when he knew that he had no leave to be in this country at all. As such those aspects of his family and private life can ordinarily attract only a little weight in the balancing exercise. Mr Oluwanle reminds us, however, that the Appellant will soon reach the mark where he would, by virtue of a 20 years continuous residence, qualify for leave on 'private life' grounds.
57. This brings us to the question of his claimed long residence. We recognise that both Judge Moore and Upper Tribunal Judge Allen proceeded on the basis that the Appellant has lived in this country since he arrived on a visit visa sometime in 2005. We say 'sometime' because it is not at all clear when that was. The Appellant himself is unable to give consistent evidence about his date of arrival. In his statement dated the 20<sup>th</sup> August 2024 he states that he arrived on the 24<sup>th</sup> January 2005, but we note that in his application form he states it to have been 30<sup>th</sup> May 2005: the Home Office record is that he entered in June of that year. There are however no reasoned findings on that claimed long residence in either of the Tribunal decisions that precede this one. There is, before us, no evidence at all of the Appellant's presence in the UK prior to 2015. That lack of evidence led Ms Nwachukwu to inform us that the Respondent now puts the Appellant to proof in respect of his claimed long residence. She invites us to determine this appeal on the basis that he has only lived here since 2015. We are not prepared to do so. Whilst we recognise that in another arena this may yet be a matter of dispute between the parties, for the purpose of this appeal it is clear to us that it has been assumed throughout that the Appellant arrived roughly when he says he did, and that he has not therefore been put on notice that his claims in that regard might be challenged. For the purpose of this appeal we therefore proceed on the basis that he did arrive 'sometime' in 2005, because to do otherwise would result in substantial unfairness to the Appellant. All of this residence has been either precarious or unlawful, and so by operation of s117B we are obliged to attach 'little weight' to it. We are however mindful that the public interest is not a monolith, and that all proportionality balancing exercises are intensely fact sensitive: see for instance Miah (section 117B NIAA 2002 – children) [2016] UKUT 00131(IAC). We are able therefore in this instance to attach the highest weight that we can, statute permitting, to the Appellant's claimed period of residence of some 19 years.
58. In addition to the Appellant's long residence, Mr Oluwanle asked us to have regard to the quality of the Appellant's private life, and in particular the close relationships with young people that the Appellant has developed. As we record above, we accept and have attached some weight to the evidence from individuals who attribute positive changes in their lives to the intervention of the Appellant. We are not however persuaded that the Appellant can only continue to provide such guidance and encouragement from this country. He denied, in response to questions from Ms Nwachukwu, that he has a strong social media presence in both the UK and Nigeria, this denial serving to underpin his assertion that he can only interact with his congregants in person. He went on, however, to flatly contradict his own evidence on this matter when seeking to assure us that SPAC Nation is "entirely open": at this stage in his evidence the Appellant asserted that in fact all services are broadcast live "on 3-4 major public social media platforms: Facebook, Instagram, Twitter, Periscope etc" and that by his calculations over 10 million people have viewed content about SPAC Nation across all media. We are satisfied that the Appellant would be able to preach, and to interact with congregants, online if necessary.

59. One final issue that we are asked to determine is whether this is a case in which the principles set down in Chikwamba v Secretary of State for the Home Department [2008] UKHL 40 apply, namely that there is no public interest in refusing leave to remain to someone who would be granted entry clearance if they returned to their home country to make an application. In his submissions Mr Oluwanle suggested that this is such a case, given the acceptance that Mary earns well over the minimum income requirement, and that theirs is a genuine relationship.
60. We are mindful that the *Chikwamba* principle should only ever be applied where it is beyond doubt that entry clearance would be granted: Secretary of State for the Home Department v Kaur [2018] EWCA Civ 1423. We are unable, in the absence of agreement by the Secretary of State, to say whether that is the case here. Whether an application from Nigeria would succeed would obviously depend on the evidence submitted at the time. Moreover even if we were to assume that an application under Appendix FM would be successful, we have been shown no evidence at all that it would be disproportionate to expect the Appellant to make one. We are not satisfied that the Appellant would face any difficulties at all in returning to Nigeria, beyond inconvenience, and we are quite satisfied that his relationships with Mary, and with his congregants, could be maintained via modern means of communication in the short period that he waited for entry clearance.
61. Weighing all of the foregoing in the balance we conclude that the decision to refuse leave to remain was wholly proportionate. The Appellant seeks to rely on family and private life relationships, all of which have been established whilst he was in the UK unlawfully, and which would survive his return to Nigeria. The interference would therefore be limited, and lawful in all the circumstances.

### Decisions

62. The appeal is dismissed.
63. There is no order for anonymity.



Upper Tribunal Judge Bruce  
Immigration and Asylum Chamber

14<sup>th</sup> October 2024