Decision and Reasons for Decision

Administrative Review Tribunal

Applicant:	**Adebayo ADEFARAKAN**
Respondent:	**Minister for Immigration and Citizenship**
Tribunal Number:	**2023/6338**
Tribunal:	**Deputy President K Millar**
Place:	**Adelaide**
Date:	**19 January 2026**
Decision:	The Tribunal sets aside the decision under review and in substitution decides that the cancellation of the visa is revoked.

.....[sgnd].....

Deputy President K Millar

CATCHWORDS

MIGRATION – visas – cancellation of visa on character grounds where substantial criminal record – cancellation decision under s 501(3A) of the Migration Act 1958 (Cth) ('the Act')– consideration of Ministerial Direction No. 110 – consideration of ss 501(3A), 501(6) and 501(7) of the Act – Legal consequence of cancellation – decision under review is revoked

LEGISLATION

Family Law Act 1975 (Cth)

Migration Act 1958 (Cth)

Migration Amendment (Aggregate Sentences) Act 2023 (No 1) (Cth)

CASES

Pearson v Minister for Home Affairs [2022] FCAFC 203

VNVT v Minister for Immigration and Multicultural Affairs [2025] ARTA 674

XLJR v Minister for Immigration, Citizenship, Migration Services and Multicultural Affairs [2022] FCAFC 6

Minister for Immigration, Citizenship and Multicultural Affairs v HRSN [2023] FCAFC 68

CRNL v Minister for Immigration, Citizenship and Multicultural Affairs [2023] FCA 252

SECONDARY MATERIALS

Minister for Immigration, Citizenship and Multicultural Affairs (Cth), *Direction no. 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation under section 501CA* (dated 7 June 2024)

Migration Regulations 1994

'DFAT Country Information Report - Nigeria', Department of Foreign Affairs and Trade, 03 December 2020, 20201203131031

Backhouse C and Toivonen C (2018) *National Risk Assessment Principles for domestic and family violence: Companion resource* ANROWS, Sydney.

Statement of Reasons

1. The Applicant first arrived in Australia from Nigeria as a student in December 2014 at 23 years of age, and is now 34 years old. He applied for a partner visa as the spouse of Ms S and was granted a Partner (Temporary) (Class UK) visa on 24 March 2017, and later granted a Partner (Permanent) (Class 801) visa.

2. On 13 December 2022, he was convicted of two counts of assault, contravening an Apprehended Violence order and entering prescribed premises without lawful excuse. He was initially sentenced to an aggregate term of imprisonment of 12 months, which was reduced on appeal to a term of imprisonment of 9 months.

3. After he was sentenced in December 2022 his visa was cancelled because he had been sentenced to a term of imprisonment of 12 months or more and was serving a term of imprisonment.

4. The Applicant sought revocation of the cancellation of his visa. A delegate of the Minister found that while Applicant had no longer had been sentenced to a term of imprisonment of 12 months or more, he failed the character test on an alternate basis; being that there was a risk he would harass, molest, intimidate or stalk a person in Australia. Following consideration of the Applicant's circumstances, the delegate found that a reason to revoke the cancellation did not exist.

5. The Applicant was taken into immigration detention on his release from prison and briefly released into the community on 29 December 2022 as he had received an aggregate sentence. At that time an aggregate sentence was not considered to meet the requirement for a sentence of 12 months imprisonment.[1] Following legislative amendment in the *Migration Amendment (Aggregate Sentences) Act 2023 (No 1)* (Cth), he was re-detained on 10 March 2023.

6. The Applicant applied for a review of the decision not to revoke the cancellation of his visa, and the Tribunal affirmed the decision, however this was remitted by the Federal

[1] *Pearson v Minister for Home Affairs* [2022] FCAFC 203.

Court in April 2024. The matter was again affirmed by the Tribunal and remitted for a second time by the Federal Court in August 2025. This is the third hearing of this matter.

BACKGROUND

7. The Applicant was born in Lagos. His father was a transporter and his mother a trader. His mother was the third wife of his father, and he has three brothers and a sister. His father died in 2012, and his mother is in Nigeria together with his half-brother. The family was affluent, however the Applicant claims this wealth has now been dissipated. His brother Mr Ad, who is an Investment Portfolio Manager in the United Kingdom, and his brother Mr Ay who is a pastor in Belgium, remain supportive. His brother Mr Ad lives in the United States of America. His sister died in 2006.

8. The Applicant and initially studied English after arriving in Australia, and completed a Diploma of Business, a Certificate in Real Estate and a Diploma of Community Services as well as short courses in disability support and first aid. In Australia he worked as a driver and in real estate, then as a carer and other community service roles.

9. The Application was granted a partner visa on the basis of his relationship with Ms S, with whom he has a daughter. Ms S and their daughter are First Nations people.[2] Ms S also has a daughter from an earlier relationship.

10. His second relationship was with Ms G, and his third with Ms H. He reported to his psychologist that he is now in a relationship with another woman which commenced shortly before he was released from prison.

NON-PUBLICATION ORDER

11. Prior to the hearing, the Applicant sought an order restricting the publication of information about his identity, noting that in his previous appeal an order was made of this nature. An initial non-publication order was made, however parties were asked to provide further submissions on whether this order should continue or be revoked.

---

[2] The term 'First Nations' is used so as not to provide further identifying information about Ms S and her children by identifying their community. No disrespect is intended by not referring to Ms S and her children as members of their identified community.

12. Under s 70 of the *Administrative Review Tribunal Act 2024* (Cth) (**ART Act**), the Tribunal may, by order, give directions prohibiting or restricting the publication or other disclosure of information tending to reveal the identity of a party, witness or a person related to or associated with a party of witness.

13. Under s 71 of the ART Act, in considering whether to make an order under s 70 in relation to the proceeding, the Tribunal must have regard to any requirements in the practice directions as well as:

    (a) the principle that it is desirable that hearings of proceedings in the Tribunal are held in public;

    (b) the principle that it is desirable that evidence given before the Tribunal is made available to the public;

    (c) the principle that it is desirable that evidence given before the Tribunal and the contents of documents given to the Tribunal are made available to all the parties to the proceeding;

    (d) any reasons in favour of making an order, including the following:

        (i) in any case--the circumstances of the parties to the proceeding and other persons connected to the proceeding;

        (ii) in any case--the harm (if any) that is likely to occur to a person if the order is not made;

        (iii) in relation to an order under section 70--the confidential nature (if any) of the information;

    (e) any other matters that the Tribunal considers relevant.

14. The Applicant sought the order because information in this matter include the identity of minor children, and details about personal events from his childhood. In addition, there is information in the material before the Tribunal about third parties.

15. The Respondent did not consent to nor oppose a non-publication order. It was noted that the first Tribunal decision and the subsequent appeal to the Federal Court were not the subject of a non-publication order and had the name of family members and minor children as well as any details of the childhood events redacted.

16. The Respondent has tendered material relating to a Family Court proceeding. Under s 114Q of the *Family Law Act* 1975 (Cth) an account of the proceeding is prohibited under that Act. The publication of the Applicant's name will identify witnesses, and the subject matter of the family law proceedings results in the decision that the s 70 ordered issued 26 March 2025 remain in effect. In addition, further orders made prohibits the publication of information about a proceeding under the *Family Law Act 1975* (Cth). This means paragraphs 54, 99, 109, 130 and 135 are not to be published.

THE HEARING

17. At the hearing of this matter, the Respondent gave notice that he wished to cross-examine the Applicant's former partner and the mother of his children, Ms S. On the day of the hearing, Ms S was not made available for cross-examination. No explanation was offered for her non-attendance, including in response to a specific questions from the Tribunal providing the Applicant the opportunity to explain her absence. The failure of Ms S to be made available for cross-examine and the failure to explain this absence results in less weight being placed on her statements.

LEGISLATIVE FRAMEWORK

18. Under s 501(3A) of the *Migration Act 1958* (Cth) ('the Act'), the Minister must cancel a non-citizen's visa if (among other things) the person does not pass the character test because they have a substantial criminal record as defined by s 501(6)(a), and the person is serving a full-time sentence of imprisonment for an offence against the Commonwealth, a State or Territory.

19. The character test is set out at s 501(6) of the Act and includes at s 501(6)(a) that a person does not pass the character test if they have a substantial criminal record as defined in s 501(7) of the Act.

20. A person has a substantial criminal record if, among other things, the person has been sentenced to a term of imprisonment of 12 months or more (s 501(7)(c) of the Act).

21. A person who has a visa cancelled under s 501(3A) may seek revocation of that decision in accordance with s 501CA of the Act.

22. As soon as practicable after a visa is cancelled under s 501(3A) of the Act, the person must be sent a notice including relevant particulars and invited to make representations about revocation of the decision to cancel their visa.

23. Under s 501CA(4) of the Act, the Minister may revoke the original decision to cancel if the person makes representations in accordance with the invitation and the Minister is satisfied that the person passes the character test or there is another reason why the original decision should be revoked.

24. The character test is set out at s 501(6) of the Act and includes at s 501(6)(d) that a person does not pass the character test where, in the event that person were allowed to enter or remain in Australia, there is a risk that the person would harass, molest, intimidate or stalk another person in Australia (s 501(6)(d)(ii) of the Act).

CANCELLATION OF THE APPLICANT'S VISA

25. The Applicant's visa was cancelled through the operation of s 501(3A) of the Act at the time he was sentenced to a term of imprisonment of 12 months.

26. As I have previously said in *VNVT v Minister for Immigration and Multicultural Affairs,*[3] subsection 501(3A) of the Act is mandatory, and the Minister must cancel a visa if satisfied two preconditions are met. In the circumstances of this case, these are:

    (1) Where the person has a substantial criminal record, which includes that the person has been sentenced to a term of imprisonment of 12 months or more; and

    (2) The person is serving a sentence of imprisonment on a full-time basis in a correctional institution for an offence against the Commonwealth, a State or a Territory.

[3] [2025] ARTA 674 at [27] – [30].

27. In *XLJR v Minister for Immigration, Citizenship, Migration Services and Multicultural Affairs,*[4] Rares J states at [45] that even if the sentence that attracts the operation of s 501(3A)(b) is later set aside, or a verdict of acquittal entered, the person has no right to have the visa restored and instead must seek the revocation of the cancellation of the visa.

28. At the point of time at which the delegate was satisfied the conditions in s 501(3A) existed, as the Applicant was sentenced to a period of 12 months imprisonment, and was serving a sentence of imprisonment, the Minister must cancel his to cancel the visa under s 501(3A) of the Act. A person cannot apply for a review of a decision to cancel a visa under s 501(3A).[5]

29. At the time the Applicant's visa was cancelled he was sentenced to a term of imprisonment of 12 months or more, and his visa was correctly cancelled.

SHOULD THE CANCELLATION BE REVOKED?

30. Under s 501CA(4) of the Act, the cancellation of person's visa can be revoked if the person makes representation in accordance with an invitation and either the Minister is satisfied the person meets the character test or there is another reason why the original decisions should be revoked.

31. The Applicant has made representations that the cancellation of his visa should be revoked, and the remaining issues to be determined are whether he meets the character test and, if not, whether there is another reason the cancellation of his visa should be revoked.

DOES THE APPLICANT MEET THE CHARACTER TEST?

32. By the time the delegate made the decision not to revoke the cancellation of the visa, the Applicant's sentence had been reduced to a term of imprisonment of 9 months.

---

[4] [2022] FCAFC 6

[5] s 500(4A) of the Act

33. In concluding the cancellation of the Applicant's visa should not be revoked, the delegate found the Applicant did not meet the character test because he did not meet s 501(6)(d)(ii) of the character test. This states that in the event the person is allowed to enter or remain in Australia, there is a risk that the person would harass, molest, intimidate or stalk another person in Australia.

34. The Applicant does not assert that he meets the character test. He submitted the threshold to meet the test in s 501(6)(d)(ii) of the Act is low, and because he has committed offences involving family violence he does not meet the character test.

35. Given the requirements in the test is a mere risk that he will harass, molest, intimidate and stalk another person, and he has ongoing contact with Ms S in relation to their daughter, I concur with this submission, and find he does not meet the character test.

IS THERE ANOTHER REASON THE CANCELLATION OF HIS VISA SHOULD BE REVOKED?

36. The remaining question is whether there is another reason the cancellation of the Applicant's visa should be revoked.

37. In considering this question, the Minister has issued Direction 110, *Visa refusal and cancellation under s 501 and revocation of a mandatory cancellation of a visa under section 501CA* ('the Direction') under s 499 of the Act. The Direction applies to the Administrative Review Tribunal in making a decision under s 501 or s 501CA of the Act, and I must apply the Direction in deciding whether there is another reason the cancellation of the Applicant's visa should be revoked.

Principles to guide decision making

38. Clause 5.2 of the Direction provides principles to provide a framework to approach decision making. These are:

    (1) Australia has a sovereign right to determine whether non-citizens who are of character concern are allowed to enter and/or remain in Australia. Being able to come to or remain in Australia is a privilege Australia confers on non-citizens in the expectation that they are, and have been, law-abiding, will respect important

institutions, such as Australia's law enforcement framework, and will not cause or threaten harm to individuals or the Australian community.

(2) The safety of the Australian Community is the highest priority of the Australian Government.

(3) Non-citizens who engage or have engaged in criminal or other serious conduct should expect to be denied the privilege of coming to, or to forfeit the privilege of staying in Australia.

(4) The Australian community expects that the Australian Government can and should refuse entry to non-citizens, or cancel their visas, if they engaged in conduct, in Australia or elsewhere, that raises serious character concerns. This expectation of the Australian community applies regardless of whether the non-citizen poses a measurable risk of causing physical harm to the Australian community.

(5) Australia has a low tolerance of any criminal or other serious conduct by visa applicants or those holding a limited stay visa, or by other non-citizens who have been participating in, and contributing to, the Australian community only for a short period of time.

(6) With respect to decisions to refuse, cancel, and revoke cancellation of a visa, Australia may afford a higher level of tolerance of criminal or other serious conduct by non-citizens who have lived in the Australian community for most of their life, or from a very young age.

(7) Decision-makers must take into account the primary and other considerations relevant to the individual case. In some circumstances, the nature of the non-citizen's conduct, or the harm that would be caused if the conduct were to be repeated, may be so serious that even strong countervailing considerations may be insufficient to justify not cancelling or refusing the visa, or revoking a mandatory cancellation.

(8) The inherent nature of certain conduct such as family violence is so serious that even strong countervailing considerations may be insufficient to justify not cancelling or refusing the visa, or revoking a mandatory cancellation, even if the information available at the time of consideration suggests that the non-citizen

does not pose a measurable risk of causing physical harm to the Australian community.[6]

39. The Direction also sets out matters to be considered in refusing or not revoking the cancellation of a visa. It requires certain primary and other considerations to be considered in making a decision, and states that in taking these into account that:

(1) In applying the considerations (both primary and other), information and evidence from independent and authoritative sources should be given appropriate weight.

(2) The primary consideration … (protection of the Australian community) is generally to be given greater weight than other primary considerations. Otherwise, primary considerations should generally be given greater weight than the other considerations.

(3) One or more primary considerations may outweigh other primary considerations.[7]

THE PRIMARY CONSIDERATIONS

40. The Direction contains five primary considerations, which are:

(1) The protection of the Australian community from criminal or other serious conduct;

(2) Whether the conduct engaged in constituted family violence;

(3) The strength, nature and duration of ties to Australia;

(4) The best interests of minor children in Australia;

---

[6] Minister for Immigration, Citizenship and Multicultural Affairs (Cth), *Direction no. 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation under section 501CA* (dated 7 June 2024) cl 5.2 ('the Direction').

[7] Ibid cl 7.

(5) The expectations of the Australian community.[8]

41. The Direction contains three other considerations, which are the legal consequences of the decision, the extent of impediments if removed, and the impact on Australian business interests.

42. The primary and other considerations have been considered in turn.

THE PROTECTION OF THE AUSTRALIAN COMMUNITY

43. The Direction requires decision-makers to keep in mind that the safety of the Australian community is the highest priority of the Australian Government, and that the Government is committed to protecting the Australian community from harm as a result of criminal activity or other serious conduct by non-citizens, and entering or remaining in Australia is a privilege conferred in the expectation that non-citizens are and have been law abiding, respect important institutions and will not cause or threaten harm to individual or the Australian community.[9]

44. Decision-makers should also consider the nature and seriousness of the conduct to date and the risk to the community if the Applicant commits further offences or engages in minor serious conduct (clause 8.1(2) of the Direction).

Nature and seriousness of the conduct

45. The Direction provides factors the Tribunal must consider when examining the nature and seriousness of the criminal offending or other conduct to date.[10]

[8] The Direction, cl 8.
[9] Ibid cl 8.1(1).
[10] Ibid clause 8.1.1(1)(a).

46. The Applicant has been convicted of a series of offences relating to family violence. The description of the offending is contained in his criminal history check[11] and the sentencing remarks of Magistrate Van Zuylen.[12]

47. In 2017 the Applicant was convicted of common assault and destroy or damage property and sentenced to a 12-month bond. These offences occurred in the context of his relationship with Ms S.

48. In 2020 he was convicted of assault occasioning actual bodily harm against his then partner Ms G and sentenced to a community correction order for a period of two years. He was ordered to complete mental health treatment and counselling, and complete the Reinvest Program if suitable. He was also ordered to complete 200 hours of community service.

49. In 2022 he was convicted of contravening an apprehended violence order and two counts of common assault,and enter a prescribed premises without lawful excuse against a third partner Ms H. He was also re-sentenced for a breach of the community corrections order imposed for the 2020 assault occasioning actual bodily harm.

50. One count of assault and enter enclosed lands occurred on 30 July 2022 following an argument with his then-partner Ms H about his behaviour at a party where he was intoxicated. The Applicant grabbed Ms H by the shoulder and pulled her backwards to face him and raised his right hand to slap her. She pushed him back and told him to leave, which he did.

51. On 30 August 2022 the Applicant had an argument with the same partner and who told him to leave. He said, 'I just want to say one thing, I could kill you and no-one would know'. He slapped her on the face and after she fell to the floor held her head toward the floor to stop her screaming. She ran to the bathroom and called police, and the Applicant began to tamper with the door. He forcefully gained entry and held her toward the wall. At the time the victim was approximately 3 weeks pregnant. Together with the

---

[11] HB5, 319 - 321
[12] HB5, 326 - 329

breach of the community corrections order for failing to complete community service he was sentenced to an aggregate term of imprisonment of 12 months.

52. His convictions were confirmed on appeal, however his sentence was reduced to a term of imprisonment of 9 months by Judge Hanley.[13]

53. As crimes of a violent nature against women, his offending is viewed very seriously by the Australian Government and the Australia community, regardless of the sentence imposed.[14]

54. In regard to the effect on victims of the offending, the Minister tendered information summonsed from the Federal Circuit and Family Court of Australia which included an affidavit sworn by Ms S seeking order in relation to their daughter. In this affidavit she was fearful of leaving the children with the Applicant[15] and that her mental health has been affected by her previous relationship with the Applicant.[16] Ms S did not attend the hearing to give evidence and could not be asked about her affidavit, however given the history of the matter and the offences committed against Ms S, I accept that she was frightened and his behaviour has had an effect on her mental health.

55. There are two other victims of the Applicant's offending, however no information is available on the effect of his offending on these victims.

56. In terms of the frequency of offending, there are seven convictions in an 8-year period. There is a limited frequency to his offending. In terms of whether this is of increasing seriousness, his first offences were common assault and destroy or damage property which escalated in 2020 to assault occasioning actual bodily harm, and then returned to common assault and entering premises. While there is an increase in severity, this is to a limited degree.

---

[13] HB5, 331- 332.
[14] Paragraph 8.1.1(1)(a) of the Direction.
[15] HB19,1854 at [17].
[16] HB29, 1856 at [39].

57. There is a cumulative effect to his offending, which is enhanced by his offending being against three different women with whom he has been in a relationship.

58. The Applicant has not previously been warned, or otherwise made aware in writing, about the consequences of further offending. Some effort was made to rely on the police facts recording that in an interview with police on 5 August 2022, he said that if he is charged, he may be deported to Nigeria.[17] The Applicant acknowledged that at that time he knew further offending may lead to his deportation. However, the Direction does not direct the Tribunal's attention to a mere awareness of the potential effect of reoffending, it requires a formal warning or being made aware in writing about the consequences of further offending in terms of his migration status.[18] There is no formal warning or written advice as to the consequences before the Tribunal.

59. Considerations of the Applicant providing false or misleading information and his conduct in another country do not apply in this matter.

60. The nature and seriousness of the conduct weigh moderately in favour of not revoking the cancellation of his visa.

Risk to the Australian community should the non-citizen commit further offences or engage in other serious conduct

61. The Tribunal must also consider the risk to the Australian community should the Applicant commit further offences. Clause 8.1.2 of the Direction states, in part:[19]

> (1) In considering the need to protect the Australian community (including individuals, groups, or institutions) from harm, decision-makers should have regard to the Government's view that the Australian community's tolerance for any risk of future harm becomes lower as the seriousness of the potential harm increases. Some conduct and the harm that would be caused, if it were to be repeated, is so serious that any risk that it may be repeated may be unacceptable.

---

[17] HB6, 933.
[18] Paragraph 8.1.1(1)(h).
[19] See also the Direction, cl 8.1(2)(b).

(2) In assessing the risk that may be posed by the non-citizen to the Australian community, decision-makers must have regard to, cumulatively:

a) the nature of the harm to individuals or the Australian community should the non-citizen engage in further criminal or other serious conduct; and

b) the likelihood of the non-citizen engaging in further criminal or other serious conduct, taking into account:

i. information and evidence on the risk of the non-citizen re-offending; and

ii. evidence of rehabilitation achieved by the time of the decision, giving weight to time spent in the community since their most recent offence (noting that decisions should not be delayed in order for rehabilitative courses to be undertaken). …

62. This requires an assessment of the nature of the harm should the Applicant engage in further criminal or other serious conduct.[20] It also requires an assessment of the likelihood of the Applicant engaging in such conduct.[21]

Nature of the harm

63. To determine the risk to the Australian community should the Applicant commit further offences or engage in other serious conduct, the Tribunal must consider the nature of the harm to individuals, or the Australian community should the Applicant reoffend.[22]

64. There is a risk of physical, psychological and financial harm to women with whom the Applicant is in a relationship should he reoffend in the same way. While his conduct is viewed by the Government and the community as very serious, it does not fall within the category that any risk of it recurring is unacceptable.

[20] The Direction, cl 8.1.2(2)(a).
[21] Ibid cl 8.1.2(2)(b).
[22] The Direction, cl 8.1.2(2)(a).

Likelihood of the Applicant engaging in further criminal or other serious conduct

65. This likelihood is to be assessed taking into account information and evidence of the risk of reoffending and evidence of rehabilitation achieved by the time of the decision (cl.8.1.2(2) of the Direction).

Information and evidence on the risk of the Applicant engaging in further criminal or serious conduct

66. A sentencing report from a Community Corrections Officer dated 19 December 2020[23] assesses the Applicant as a low risk of reoffending. A Mental Health Social Worker recommends continued participation in mental health counselling and compliance with any prescribed medication. Despite this relatively positive assessment, the Applicant went on to commit other offences for which he was convicted in 2022.

67. In assessing the likelihood of re-offending, it should be noted that the Applicant failed to complete community service and stopped responding to attempts to contact him. As a result, he was in breach of his community corrections order in 2022.[24] This does not show a commitment at that point in time to complying with orders of the court or a commitment to rehabilitation.

68. The Applicant provided a report from psychologist Mr Zhou who saw the Applicant after he was referred by his General Practitioner under a Mental Health Care Plan for four sessions between January to mid-March 2023.[25] His sessions ended because he was taken into immigration detention. Mr Zhou provided an updated report dated 26 November 2025 on the basis of the session conducted in 2023.

69. Mr Zhou states that his assessment in 2023 was that the Applicant required therapy for past trauma, emotional regulation, and distress tolerance in interpersonal boundaries. He required relapse prevention strategies for alcohol and cannabis use, anger management and healthy relationship skills, in particular for co-parenting strategies,

---

[23]HB6, 903 – 906.
[24] HB6, 922-925.
[25]HB3, 23 – 28.

case management collaboration to coordinate health professionals, programs and social services and support for reintegration such as housing, employment, relationships parenting and connection with the community.[26]

70. Mr Zhou reports the Applicant demonstrated remorse and insight and expressed a desire to fix past mistakes and stated that incarceration had helped him reflect on what he did and promoted accountability.[27] Mr Zhou reports the Applicant demonstrated motivation to change and future orientation and being protective, pursuing employment, accommodation, domestic violence offender programs and parenting involvement.

71. Mr Zhou states that at the time he saw the Applicant he demonstrated motivation to change and engagement in psychological therapy but that his environment was unstable including homelessness, unemployment and unstable relationships and this may lead to relapse.

72. Mr Zhou provided an update to his report dated 26 November 2025 on the basis of the sessions conducted in 2023.

73. A psychology assessment was conducted by Clinical Psychologist Mr Visser in a three hour interview on 6 September 2024.[28] Mr Visser assessed the Applicant as a low to moderate risk of any form of recidivism and a moderate risk of recidivism in relation to family violence. This risk would reduce if he were to engage in specific therapy to address his trauma.

74. Mr Visser's assessment of the Applicant's alcohol use prior to his imprisonment in 2022 it that it was at a level that constitutes an alcohol use disorder. The Applicant denied any alcohol use following his incarceration. He also reported cannabis use to Mr Visser.

75. Mr Visser considers the causal factors of the Applicant's offending include his mental illness and drug and alcohol abuse. Mr Visser states if he addresses his trauma this will address the need for avoidance by using alcohol and drugs. Mr Visser considers the

---

[26] HB3, 26.
[27] HB3, 25.
[28] HB11, 1529-1549.

Applicant has a diagnosis of PTSD with moderate symptoms due to his experiences as a child.

76. Mr Visser notes that the Applicant had some psychological treatment prior to his incarceration in 2022 but it was minor and ultimately ineffective in maintaining sobriety and managing his anger. Mr Visser state that since his incarceration, the Applicant has made more consistent efforts to change his behaviour engaging in regular psychotherapy, completing courses on domestic violence and drug and alcohol, use and maintaining sobriety.[29]

77. The Minister refers to the transcript of previous hearings where in cross-examination Mr Visser is asked for specific treatment recommendations 'if he is released into the community to tangibly reduce his risk.'[30] Mr Visser recommends 10 session of EMDR or trauma focussed CBT with a clinical psychologist. This treatment is not available in immigration detention, as shown by health records showing the Applicant requesting this treatment from both a counsellor[31] and a psychiatrist[32] and being advised it would not be available.

78. It was submitted by the Minister that an updated report was provided by Mr Zhou rather than Mr Visser, who had provided a more recent psychology report, to avoid the issues around Ms S having spoken to Mr Zhou. It is suggested that as Mr Visser did not provide an updated report and was not called to give evidence, this infers his evidence about any reduced risk would not assist the Applicant.

79. I do not consider this inference warranted. The Applicant has provided his plans to seek treatment for his mental health in the community, which includes concrete steps of seeing a GP and being referred to a psychologist. While I can only have regard to rehabilitation achieved to the date of this decision, the amount of rehabilitation undertaken by the Applicant has resulted in him identifying a need for ongoing treatment and having a detailed plan, including the steps required for this to occur.

---

[29] HB11, 1530.
[30] HB17, 1821.
[31] HB20, 2023.
[32] HB20, 2025.

80. The assessments of Mr Zhou and Mr Visser indicate that the Applicant is a moderate risk of offending in relation to family violence. The degree to which this risk is vitiated will depend on his rehabilitation for drug and alcohol use and for his mental health, ongoing counselling and the degree to which he can access employment, housing and stable relationships.

Drug and Alcohol

81. The Applicant completed a course on 26 May 2023 'Drug and Alcohol Abuse 101' which had 7 contact hours, and the SMART recovery program with records of regular participation between 22 August 2023 and 17 October 2023.[33].

82. The Applicant claims, and there is no information to the contrary, that he has been drug and alcohol free since he was imprisoned. There is no information to show that he used alcohol or drugs while released into the community from 29 December 2022 to 10 March 2023. However, the prognosis for his continued abstinence in the community is guarded, given his long-standing history of alcohol abuse and the short period he was in the community.

Counselling

83. The Welfare Team in immigration detention report the Applicant has a genuine commitment to personal growth and rehabilitation with a positive attitude and willingness to engagement in self-improvement.[34] The Applicant provided his assignments on generalised anxiety disorder and depression and the feedback on this assignment which was positive, and shows he has gained an understanding of these conditions.

84. A letter was provided from the 'Number 8 Prison Project' dated 7 June 2023 stating that the Applicant was known through chaplaincy visits to immigration detention. It is stated he consistently attended sessions with the group for 3 months.

---

[33] HB8,1354 – 1355.
[34] Ibid.

85. The Applicant's health records from immigration detention support his evidence that he has attended counselling sessions while in immigration detention, which is now a period of approximately three years. The Applicant estimated he had attended 60 or 70 counselling sessions of one hour on each occasion. He said he is a better person now and is calmer and able to control his actions since he had stopped drinking.

Housing and employment

86. When released from immigration detention, the Applicant was in contact with the Wayside Church in Sydney. A letter dated 21 September 2023 states Wayside will support the Applicant on his release in providing information and referral and advocacy as they do for people facing homelessness, and who have mental health and drug and alcohol issues.

87. The Applicant's friend Mr C stated he would provide the Applicant with accommodation and with employment in his business if the Applicant is released from immigration detention.[35] Mr C has consistently supported the Applicant, providing for statements in support of the Applicant between May 2023 and November 2025.

88. Mr C gave oral evidence at the hearing and was unshaken under cross-examination about his willingness to provide the Applicant accommodation and employment. Mr C said he supported the Applicant because he has known him since 2014, and people need help sometimes. Mr C displayed a good understanding of the Applicant's offending. He said had only more recently offered accommodation as he had recently moved to a three-bedroom house.

Family violence

89. On 27 May 2023 the Applicant completed a course on Domestic Violence which had 8 contact hours.[36]

---

[35] HB20, 2175 – 2176.
[36] HB5, 548 – 549.

90. In July 2023, the Applicant completed the 'Circuit Breaker' course, which is a 10 session course with the aims expressed as arresting anger, preventing violence and strengthening families. The session titles were anger and discretion, reading the stop signs, making them listen, intimacy and emotions, letting go, opening your mind, the new listening, a time to talk, overcoming jealousy, and the new you.

91. The positive lifestyle program completed in November 2025 included units on self-awareness, anger, depression and loneliness, stress, grief and loss, assertiveness, self-esteem and future directions.[37]

92. He completed a 10 session an anger management course conducted by 'Minds Together' in November 2023.[38]

93. The welfare team in immigration detention report the Applicant completed an anger management program 'The Man Cave Project' and the positive lifestyle program.[39] The latter is to conducted for participants to examine their behaviour and the effects of their behaviour on others, and was conducted over a two month period.[40] A report on the Applicant's participation in each of the Positive Lifestyle sessions,[41] where he was described as actively and enthusiastically engaged in the sessions and the homework involved.

94. In cross-examination of the Applicant's psychologist Mr Visser in a previous hearing of this matter, Mr Visser acknowledged that a threat to Ms S that 'Wait until I get to see you. I'm going to kill you.'[42] would increase his risk of reoffending but not to a high overall risk.

95. The Minister invited the Tribunal to consider the risk factors specified in the *National Risk Assessment Principle for domestic and family violence: Quick Reference guide for*

---

[37] HB3, 39.
[38] HB8, 1356.
[39] HB3, 29.
[40] HB6, 912; HB11, 1563.
[41] HB11, 1560 – 1563.
[42] HB1818 – 1819.

practitioners[43] an attachment to the *National Risk Assessment Principles for domestic and family violence: Companion resource* and itself assess the risk of reoffending as higher than moderate.

96. As the document itself states risk assessment is a 'complex, continuing and evaluative process', 'forms part of a broader discussion with the victim about their experiences of the behaviour or with the perpetrator about their beliefs and behaviour',[44] and that the most effective risk assessment is a structured professional judgment approach,[45] the Tribunal declines the invitation to itself assess the risk.

Relationship with his daughter

97. The Applicant has maintained a relationship with his daughter. His previous partner Ms S has provided statements in support of the Applicant and his relationship with both his daughter and step-daughter but did not attend to give evidence, an absence which was unexplained. This leads to the question posed by the Minister on whether Ms S would support the Applicant's relationship with his daughter.

98. The Applicant provided evidence, which was not disputed, that his daughter visits him in immigration detention once a month and he talks to her regularly. Ms S brings his daughter to the detention centre to visit him and wrote to the Department seeking his transfer to be closer to he so their daughter could visit the Applicant[46]. She has written letters of support asking that the cancellation of his visa is revoked.[47]

99. The orders made by the Court on 29 November 2021[48] allow equal shared parenting responsibility, with their daughter living with Ms S and spending time with the Applicant as agreed by the parties. While less weight can be placed on her support for the Applicant as Ms S was not cross-examined, and no explanation was provided for her

---

[43] Backhouse C and Toivonen C (2018) *National Risk Assessment Principles for domestic and family violence: Companion resource* ANROWS, Sydney.

[44] Ibid p 21.

[45] Ibid p 23.

[46] HB1292.

[47] HB 554-555, HB747-748.

[48] HB19, 1933.

absence, I consider that despite the actions taken in the Federal Circuit and Family Court and the accompanying affidavit of Ms S resulting from the need to recover their daughter form the Applicant, she is likely to support the ongoing relationship between the Applicant and their daughter.

Remorse

100. Remorse is easily expressed and difficult to quantify. It can show motivation to change behaviour but is not itself determinative of the risk of reoffending. A motivation to cease the behaviour that is the cause for concern can be driven by a desire not to be removed from Australia, not to be separated from family and friends or not to be in immigration detention despite a lack of remorse. A person may be deeply remorseful after an incident but repeat the behaviour. For remorse to be meaningful, there must be evidence that remorse or lack of remorse reduces or increases the risk of the person engaging in further criminal or other serious conduct in a way that adds weight to revoking or not revoking the cancellation of the visa.

101. Attempts were made in this matter to paint the Applicant as not being remorseful, and of this being of considerable significance in this matter. Mr Zhou states the Applicant demonstrated remorse and a desire to fix past mistakes. Despite the remorse expressed after his offending in 2020, the Applicant went on to reoffend in 2022.

102. The remorse or lack of remorse is of limited assistance in this matter, and I place little weight on this aspect in determining the likelihood of the Applicant engaging in further criminal behaviour or other serious conduct. There is a salutory effect of being sentenced to a term of imprisonment for 9 months and subsequently being detained for 3 years.

Conclusion – likelihood of the Applicant engaging in further criminal or other serious conduct

103. The Applicant's past conduct has involved acts of family violence towards three different intimate partners. However, he has now spent over three years in immigration detention actively engaging in rehabilitation that is specific to his needs – including drug and alcohol use, counselling and courses relevant to family violence. He has abstained from

drugs and alcohol in this period. Other risk factors identified by Mr Zhou in terms of housing and employment are addressed by Mr C's offer.

104. While he has undertaken considerable rehabilitation the most recent assessment by a clinical psychologist is that he is a moderate risk. He did not reoffend while in the community, however this was for a limited period. Overall, I consider he is a moderate risk of reoffending.

Conclusion on the protection of the Australian community

105. Overall, the protection of the Australian community weighs moderately in favour of not revoking the cancellation of the visa.

FAMILY VIOLENCE COMMITTED BY THE NON-CITIZEN

106. Clause 8.2 of the Direction provides that decision-makers, such as the Tribunal, must have regard to family violence perpetrated by the non-citizen when deciding whether the Applicant's visa should remain cancelled.

107. This is relevant where the Applicant has been convicted of an offence, found guilty of an offence, or had charges proven that involve family violence or there is evidence from independent and authoritative sources that he is, or have been involved in the perpetration so family violence, and procedural has been accorded.[49]

108. The Applicant has been convicted of offences involving family violence, in that they were acts towards a person with whom he had an intimate personal relationship and involved assault.

109. The Minister submits that the affidavit of Ms S in support of her application to the Federal Circuit and Family Court regarding the care of their daughter is also an independent and authoritative source. As this was submitted with the aim to support the orders she sought, I do not consider it independent. Her affidavit was not tested in Court, with the Applicant consenting to the orders, and he states he was not represented at that time.

---

[49] cl 8.2(2) of the Directions.

The Applicant does not dispute that the conduct for which he was convicted is family violence.

110. In considering the seriousness of the family violence engaged in by the non-citizen, the following factors must be considered where relevant:[50]

a) the frequency of the non-citizen's conduct and/or whether there is any trend of increasing seriousness;

b) the cumulative effect of repeated acts of family violence;

c) rehabilitation achieved at time of decision since the person's last known act of family violence, including:

i. the extent to which the person accepts responsibility for their family violence related conduct; Page 8 of 24

ii. the extent to which the non-citizen understands the impact of their behaviour on the abused and witness of that abuse (particularly children);

iii. efforts to address factors which contributed to their conduct; and d) Whether the non-citizen has re-offended since being formally warned, or since Otherwise being made aware by a Court, law enforcement or other authority, about the consequences of further acts of family violence, noting that the absence of a warning should not be considered to be in the non-citizen's favour. This includes warnings about the non-citizen's migration status, should the non-citizen engage in further acts of family violence.

d) Whether the non-citizen has re-offended since being formally warned, or since Otherwise being made aware by a Court, law enforcement or other authority, about the consequences of further acts of family violence, noting that the absence of a warning should not be considered to be in the non-citizen's favour.

---

[50] Direction, clause 8.1.2(3).

> This includes warnings about the non-citizen's migration status, should the non-citizen engage in further acts of family violence.

111. The Applicant was convicted of offences involving family violence in 2017, 2020 and 2022. His offending is repeated and is of limited frequency but increasing seriousness. There is a cumulative effect to his conduct, particularly as his conduct was against three different women with whom he has been in a relationship.

112. The Applicant has made significant efforts in rehabilitation to address this conduct and the underlying causes of the conduct through drug and alcohol counselling, counselling and courses on family violence and managing his behaviour. He accepts responsibility for the behaviour. There is little information on his understanding of the effect of the behaviour on the three women who were the victims of his offending, as distinct from his acknowledgement that the behaviour was wrong, other than it had a 'bad impact' on them.

113. The Applicant was aware his behaviour constituted family violence, and it weighs against him that he continued to offend in the same or similar ways.

114. As outlined above, the Applicant was aware of the potential effect on his visa status if he continued to offend as outlined above, however this was not at the instigation of a court or law enforcement body.

115. Overall, the family violence weighs moderately against revoking the cancellation of his visa.

THE STRENGTH, NATURE AND DURATION OF TIES TO AUSTRALIA

116. This consideration requires the Tribunal to have regard to the strength, nature and duration of the Applicant's ties to Australia. Clause 8.3 of the Direction requires a

consideration of the person's immediate family members who are Australian citizens, permanent residents or who have a right to remain indefinitely in Australia.

117. Clause 8.3 of the Direction provides that:

> (1) Decision-makers must consider any impact of the decision on the non-citizen's immediate family members in Australia, where those family members are Australian citizens, Australian permanent residents, or people who have a right to remain in Australia indefinitely.
>
> (2) Where consideration is being given to whether to cancel a non-citizen's visa or whether to revoke the mandatory cancellation of their visa, the decision-maker must also consider the strength, nature and duration of any other ties that the non-citizen has to the Australian community. In doing so, decision-makers must have regard to:
>
> a) how long the non-citizen has resided in Australia, including whether the non-citizen arrived as a young child, noting that:
>
> i. less weight should be given where the non-citizen began offending soon after arriving in Australia; and
>
> ii. more weight should be given to time the non-citizen has spent contributing positively to the Australian community
>
> b) the strength, duration and nature of any family or social links with Australian citizens, Australian permanent residents and/or people who have an indefinite right to remain in Australia.

Immediate family

118. The Applicant's immediate family is his daughter. It is accepted his removal from Australia will be to her detriment emotionally and financially.

Other ties

119. The Applicant has lived in Australia since December 2014 and arrived as an adult. His first conviction occurred three years after he arrived.

120. In considering the Applicant's ties, more weight may be given in light of the Applicant's positive contribution to the community in working as a carer and community educator and his other employment.

121. The Applicant's daughter and his ex-wife Ms S are First Nations people, and he has some connection with their community, albeit to a limited extent in letting the elders know what is happening with his daughter and receiving newsletters.

122. The Applicant has ties with his previous partner Ms S which have survived his conduct towards her and have been maintained over time.

123. The Applicant has connections with Ms S's older daughter, who is 15 years old and provided a letter in support of the reinstatement of his visa.[51] Most recently on 24 November 2025, she provided a letter of support identifying the Applicant as her stepfather and expressing her appreciation for him teaching Nigerian culture and language.[52] Ms S states that her older daughter is also of Nigerian heritage and the importance she places on the children having connection to both their Indigenous and Nigerian heritage.

124. The Applicant has the support of friends in the community. This includes his longstanding friendship with Mr C of over 10 years, Ms M for 8 years, Mr LA of 6 years and others.

125. Overall, the Applicant's ties to Australia, including his ongoing ties to his daughter, Ms S, Ms S's older daughter and longstanding friendships weigh moderately to strongly in favour of revoking the cancellation of his visa

---

[51] HB875,
[52] HB20, 2171.

BEST INTERESTS OF MINOR CHILDREN IN AUSTRALIA AFFECTED BY THE DECISION

126. Clause 8.4 of the Direction requires the Tribunal to consider the best interests of minor children in Australia affected by the decision. Under clause 8.4, the Tribunal must make a determination whether cancellation or refusal under s 501 of the Act, is or is not, in the best interests of children who are under 18 at the time the decision is expected to be made. Where there are two or more relevant children, the best interests of each child should be given individual consideration to the extent that their interests might differ.

127. The Applicant has a daughter of his relationship with Ms S who is 9 years old. He also states the interests of Ms S's older child who is 15 years old are affected by the decision not to revoke the cancellation of his visa. Both children are First Nations.

128. The Applicant has a strong and continuing relationship with both children, but particularly his daughter who visits him monthly. He has a parental relationship with both children, however his stepdaughter also has a parental relationship with her father, and the Applicant acknowledged that her father plays an active role in her life. Arrangements were made for his transfer to Villawood to facilitate visits from his daughter, and Ms S provided information to the Department in support of this transfer.

129. The Applicant has shared parental responsibility for his daughter, with contact arranged by agreement between the parties. He has provided some financial support to Ms S for the support of their daughter.[53] Given the rehabilitation undertaken by the Applicant, including a parenting course, he is likely to play a positive parental role for his daughter in the future. His daughter is currently nine, and he will play a parental role for a considerable period if the cancellation of his visa is revoked. He plays less of a parental role for Ms S's older daughter, who will turn 18 within three years.

130. The proceedings in the Federal Circuit and Family Court of Australia resulted from the Applicant removing his daughter from her mother's care and keeping her in his care. Ms S's affidavit to the Court details an altercation between them which caused their daughter distress and resulted in an apprehended violence order being made against Ms S which

---

[53] HB1569 – 1581.

had the effect of preventing her contacting their daughter. His conduct in removing his daughter from her mother's care and their daughter witnessing the altercation would cause his daughter distress, and is a negative impact on her.

131. The removal of the Applicant from Australia, which is the most likely outcome if his visa remans cancelled, would have a significant adverse effect on both children, but particularly his daughter. Ms S places importance on the cultural education of her children in both their First Nation and Nigerian culture, and the removal of the Applicant may reduce his ability to convey Nigerian culture. He could maintain contact through electronic means, however his daughter is still young and in person contact would appear unlikely if his visa remains cancelled.

132. The Applicant acknowledged that Ms S has re-partnered but was not sure whether her new partner played a parental role for the children. Ms S's older daughter has both parents playing an active role in her life.

133. The expressed view of both children are that they want the Applicant to remain in Australia and to play a role in their lives.

134. Given the allegation in Ms S's affidavit and the convictions for offences against Ms S, it is likely that the children witnessed family violence while the Applicant and Ms S were in a relationship. Their daughter witnessed the altercation when the Applicant removed her from her mother's care. While Mr Visser in cross-examination in a previous hearing provided evidence on possible outcomes for the children of witnessing family violence,[54] there is no direct information before me about the physical or emotional trauma his daughter suffered as a result.

135. Overall, the best interests of the Applicant's daughter weigh heavily in favour of revoking the cancellation of his visa. The best interests of Ms S's older daughter also weigh in favour of revoking the cancellation of his visa.

EXPECTATIONS OF THE AUSTRALIAN COMMUNITY

---

[54] HB1816.

136. The fifth primary consideration requires the Tribunal to weigh the expectations of the Australian community. Clause 8.5(1) of the Direction provides that the Australian community expects non-citizens to obey Australian laws while in Australia. The Direction goes on to state that where a non-citizen has engaged in serious conduct in breach of this expectation, or where there is an unacceptable risk that they may do so, the Australian community, as a norm, expects the government would not allow them to enter or remain in Australia.

137. Clause 8.5(2) directs that visa cancellation or refusal, or non-revocation of the mandatory cancellation of a visa, may be appropriate simply because the nature of the character concerns or the offences is such that the Australian community would expect that the person should not be granted or continue to hold a visa. This includes an expectation that a visa should be cancelled if they raise serious character concerns involving family violence or serious crimes against women.[55]

138. Clause 8.5(3) of the Direction further confirms that the stated expectations apply regardless of whether the non-citizen poses a measurable risk of causing physical harm to the Australian community.

139. Clause 8.5(3) of the Direction further confirms that the stated expectations apply regardless of whether the non-citizen poses a measurable risk of causing physical harm to the Australian community.

140. It is not for the Tribunal to itself assess the expectations of the Australian community, the expectations are those set out in the Direction.[56] The weight to be attributed to this expectation is a matter for the Tribunal.

141. This consideration weighs somewhat in favour of not revoking the cancellation of the visa.

---

[55] Directions, paragraph 8.5(2)(a) and (c).

[56] *Minister for Immigration, Citizenship and Multicultural Affairs v HRSN* [2023] FCAFC 68.

OTHER CONSIDERATIONS

142. Clause 9 of the Direction states:

> (1) In making a decision under section 501(1), 501(2) or 501CA(4), the considerations below must also be taken into account, where relevant, in accordance with the following provisions. These considerations include (but are not limited to):
>
> a) legal consequences of the decision;
>
> b) extent of impediments if removed;
>
> c) impact on Australian business interests.

Legal consequences of decision under s 501 or 501CA

143. The Tribunal is required to consider the legal consequences of a decision on a non-citizen, including having regard to Australia's non-refoulement obligations in respect of unlawful non-citizens.[57]

144. The Applicant does not claim that any non-refoulement obligations apply.

145. In general, if a person is an unlawful non-citizen, the person must be detained under s 189 of the Act and must be removed from Australia in accordance with s 198 of the Act. The Applicant will be prevented by s 501E of the Act from applying for visas other than a protection visa or a Bridging Visa R (Removal Pending) while in the migration zone. He will also be subject to special return criteria that provides for permanent exclusion from some types of visas should he apply for those visas.[58]

146. The legal consequence of the decision is that the Applicant will remain in detention until removed and is unlikely to be able to return. This means he will be separated from his daughter on a lengthy or indefinite basis.

---

[57] Ibid cl 9.1.

[58] See Special Return Criterion 5001(c), Schedule 5, Migration Regulations 1994.

147. This consideration weighs moderately in favour of revoking the cancellation of his visa.

Extent of impediments if removed

148. The Tribunal must consider the extent to which the Applicant would face an impediment or impediments if removed from Australia to their home country, in establishing themselves and maintaining basic living standards taking into account the Applicant's:

- Age and health;
- Whether there are substantial language or cultural barriers; and
- Any social, medical and/or economic support available to them in that country.

149. The Applicant is 34 years of age and has health concerns including Type 2 Diabetes, high cholesterol, back pain from a past motor vehicle accident in 2017 and a diagnosis of depression/anxiety and PTSD. He lived in Nigeria until he arrived in Australia in 2014 and would not face any substantial language or cultural barriers.

150. In his report Mr Visser states that if the Applicant were deported it would have a moderate negative impact on his mental health and would at least initially increase his risk of relapse.[59]

151. The Applicant argues that he will not be able to access medical treatment if he returns to Nigeria. The Department of Foreign Affairs and Trade country information report Nigeria 2020 (the **DFAT Report**) records that health services in Nigeria reports high reliance on out of pocket payments for health service,[60] and the health system faces 'significant challenges in meeting the needs of its population.'[61] Male life expectancy is 53 years.[62] DFAT assessed Nigeria as having 'limited capacity to provide mental health

---

[59] HB11, 1531.

[60] 'DFAT Country Information Report - Nigeria', Department of Foreign Affairs and Trade, 03 December 2020, 20201203131031 [2.20].

[61] [2.21].

[62] Ibid.

services to its citizens.'[63]

152. The Applicant is reported to have come from an affluent family. He says that as his mother is the third wife her assets have been dissipated, including to fund the studies of each of her children but that she owns the house in which she lives. The Respondent submitted that the Applicant was on notice about the need to provide specific information of his mother's financial position but had failed to do and as such an adverse inference is available. I do not consider that on the information before me, which does not include previous details of significant resources that I can infer that his mother has significant financial resources that would allow her to support the Applicant on an ongoing basis. As she owns her home, his mother could provide accommodation.

153. The Applicant has the capacity to work given his work history and plans to work in Australia. Finding work may be difficult, given the DFAT Report that 'Nigeria faces significant challenges in ensuring employment opportunities for it's large, young population …'.[64]

154. At the least, the Applicant is concerned about how he could access treatment for his conditions, and the DFAT Report supports that her are some problems with availability and that medical treatment requires financial resources.

155. Given these constraints on the health system, the Applicant's concern about treatment being available is understandable. The extent of his family resources to meet the costs of his treatment is uncertain.

156. The extent of impediments if the Applicant returns to Nigeria weighs in favour of revoking the cancellation of his visa.

Impact on Australian business interests

157. Clause 9.3 provides that decision-makers must consider any impact on Australian business interests if the non-citizen is not allowed to enter or remain in Australia, noting

---

[63] At [2.28].
[64] At [2.13].

that an employment link would generally only be given weight where the decision would significantly compromise the delivery of a major project, or delivery of an important service in Australia.

158. The Applicant has qualifications in disability care, however it is unlikely that he would be able to return to this work given his convictions. He plans to work for his friend Mr Campbell in his business. If he is unable to do so, this will not compromise the delivery of a major project or important service in Australia.

159. This consideration does not weigh for or against revoking the cancellation of his visa.

CONCLUSION

160. The task in assessing whether there is another reason the cancellation of the Applicant's visa should be revoked lies in bringing together the primary and other considerations as a part of a single evaluation.[65]

161. In the circumstances of this case the Tribunal is mindful of the principles that that guide this assessment in that the protection of the community is the highest priority of the Australian community, and that the community expects a visa to be cancelled if the person has engaged in conduct that raises serious character concerns, and the gravity of the inherent nature of family violence.

162. The Applicant remains a risk of reoffending, having committed family violence offences in three different relationships and this consideration as well as the protection of the Australia community, and family violence committed by the Applicant, weigh moderately in favour of not revoking the cancellation of his visa. The expectations of the Australian community also weigh in favour of not revoking the cancellation of his visa.

163. The countervailing considerations are the strength, nature and duration of his ties to Australia, the best interests of minor children, in particular his daughter, the legal consequences of the decision and the extent of impediments if removed.

---

[65] *CRNL v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] FCA 252.

164. In the three years he has been detained, the Applicant has used his time wisely and has taken the opportunity to undertake rehabilitation, with positive reports about his participation. He has addressed those recommendations from psychologists he has been able to implement, including ongoing counselling and finding accommodation and employment if he is released from immigration detention. His interest in rehabilitation has not been fleeting, and is a substantial body of work over a three year period. He has maintained a relationship with his daughter and repaired his relationship with Ms S to the extent that she brings his daughter to see him, and facilitates her older daughter providing support for the revocation of the cancellation. He has longstanding friendships with others in the community.

165. Overall, there is another reason to revoke the cancellation of the visa. The decision under review will be set aside and substituted with a decision to revoke the cancellation of his visa.

DECISION

166. The decision under review is set aside and substituted with a decision that the cancellation of the Applicant's visa is revoked.

Date of hearing: 23, 24 December 2025

Counsel for the Applicant:	Dr Jason Donnelly **Latham Chambers**
Counsel for the Respondent:	Ms Rachel Francois **11 St James Hall Chambers**