

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

COVENTRY ROAD CEMETERY, BEDWORTH

PETITION OF DENISE WHITE

RE: THE CREMATED REMAINS OF IVOR GORDON HUGHES

JUDGMENT

- 1) On 14th March 1986 the cremated remains of Ivor Hughes were interred in the consecrated portion of the Coventry Road cemetery in Bedworth. Mr. Hughes had died after a short illness. His daughter, Denise White, petitions for a faculty to permit the exhumation of those remains with a view to them being interred in the Heart of England cemetery in Nuneaton. Mrs. White brings the petition in order to fulfil the wishes of her late mother, Iris Hughes, being the widow of Ivor Hughes. Iris Hughes died in August 2015.
- 2) For the reasons set out below I have allowed the petition and have directed the grant of a faculty authorising the proposed exhumation.
- 3) I concluded that it was expedient for the matter to be determined on the basis of written representations. Mrs. White consented to this and sent a number of letters to stand as her representations.
- 4) The Area Dean has consented to the proposed exhumation and I am satisfied that an appropriate plot is available at the Heart of England cemetery.
- 5) Mr. Hughes's remains were interred in the plot at the Coventry Road cemetery which already contained the remains of Mrs. Hughes's grandfather. Mrs. White says, and I accept, that Mrs. Hughes later came to regret this decision.
- 6) In 2010 or thereabouts Mrs. White's sister, the daughter of Ivor and Iris Hughes, sadly died. Her husband arranged for her to be interred in the Heart of England cemetery. He acquired three adjoining burial plots. One of those contains the remains of that sister and in due course it is intended that her husband's remains should also be interred in that plot. One of the adjoining plots is intended for the

two sons of that couple. Mrs. Hughes's remains have been interred in the other plot. They are, accordingly, alongside the remains of her daughter and in a block which will in time also contain the remains of her grandsons and of her son in law. A memorial bench dedicated to the memory of Mr. and Mrs. Hughes's daughter stands next to those three plots. Before her death Mrs. Hughes had begun moves towards seeking a faculty for the exhumation of the remains of Mr. Hughes with a view to re-interment at the Heart of England cemetery and Mrs. White is continuing that process.

- 7) Mrs. White is able to explain how it was that Mr. Hughes's remains came to be placed in the grave of his wife's grandfather. She says that Mrs. Hughes was herself ill at the time. Mrs. White says that Mr. and Mrs. Hughes had at that time been planning "a *general revamp*" of the grave of Mrs. Hughes's grandfather and Mrs. White believes that her mother "*thought that placing [Mr. Hughes's] ashes in this plot would be the most cost effective way to proceed.*"
- 8) The proposal is that Mr. Hughes's remains should be placed in the plot in the Heart of England cemetery which already contain his wife's remains. I have already explained that is alongside the plot containing the remains of the daughter of Mr. and Mrs. Hughes and next but one to the plot intended for their grandsons.
- 9) The approach which I am to take in considering this Petition was laid down by the Court of Arches in [2002] Fam 299. I have a discretion but the starting point in exercising that discretion is the presumption of the permanence of Christian burial. That presumption flows from the theological understanding that burial (or the interment of cremated remains) is to be seen as the act of committing the mortal remains of the departed into the hands of God as represented by His Holy Church. It must always be exceptional for exhumation to be allowed and the Consistory Court must determine whether there are special circumstances justifying the taking of that exceptional course in the particular case (the burden of establishing the existence of such circumstances being on the petitioner in the case in question).

- 10) There was a deliberate decision on the part of Mrs. Hughes to inter her husband's remains in the grave already containing those of her grandfather. There was a degree (admittedly limited) of family connexion between Mr. Hughes and his wife's grandfather. Moreover, Mr. Hughes's remains have been in that plot for very nearly 40 years.
- 11) If this petition had in fact been brought by Mrs. Hughes and if she were still alive then I would have been unlikely to grant the petition. This is because it would have been possible for the remains of Mrs. Hughes and of her late husband to be united by the interment of her remains in the plot at the Coventry Road cemetery already containing the remains of Mr. Hughes. I must, however, approach this petition on the basis of the facts as they now are. Mrs. Hughes's remains are now in a trio of plots alongside the remains of her daughter and the plot in which it is believed her grandsons will be interred.
- 12) The creation of a family grave or the wish to move remains to an existing family grave can be a special circumstance justifying an exhumation in accordance with the approach laid down in *Re Blagdon Cemetery* but whether it will do so will depend on the facts of each particular case.
- 13) I am satisfied that there is now a genuine family plot at the Heart of England cemetery. The suggestion that there should be a family grave there is not a mere aspiration. In addition I am satisfied that the interment of Mrs. Hughes's remains in the plot next to those of her daughter was an entirely understandable and proper course. It was not in any way a device seeking to force the Court's hand. If Mr. Hughes's remains are interred in the same plot not only will those remains be united with those of his wife but there will be a group of graves providing for the interments of three generations of the family alongside each other. In the light of those matters I have concluded that there are exceptional circumstances here justifying exhumation and that the petition should be granted.



STEPHEN EYRE

HIS HONOUR JUDGE EYRE QC

CHANCELLOR

20th January 2016