

Neutral Citation Number: [2021] ECC Swk 5

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF MITCHAM ROAD CEMETERY, CROYDON

AND IN THE MATTER OF A PETITION BY TERESA STOKES

JUDGMENT

1. This is the petition of Teresa Stokes who seeks permission to exhume the remains of her daughter Annalise Stokes from plot X3/14872 in Mitcham Road Cemetery, Croydon in order to re-inter those remains in plot E2/10765 in the same cemetery. Both plots are consecrated ground and thus subject to the faculty jurisdiction. The circumstances of the matter are as follows.
2. Annalise was the only daughter of Mr and Mrs Stokes. She died in 2011 when she was still a child.
3. If at that time in Mitcham Road Cemetery there had been available a “triple depth” grave, Mr and Mrs Stokes would have organised the burial of Annalise’s remains in such a grave, so that, in due time, the remains of all three family members could have been interred in one grave. However ground conditions dictate that triple depth graves are not available. This being the case and such a grave not being an option, Mr and Mrs Stokes chose a single rather than a double grave for the burial of the remains of Annalise.
4. Mr Stokes died in October 2020. He was buried in a double depth grave, as near as possible to the grave of Annalise. It is about 400 yards away.
5. Obviously this will enable Mrs Stokes in due time to be buried with the remains of her husband in a grave that is close to that of Annalise. However her wish is that the remains of Annalise should be buried with those of her husband and that, in due time, she should be buried in the plot alongside¹. She would prefer that the three family members should in due time be buried in the same grave but that remains impossible. She tells me that before his death Mr Stokes had expressed the wish that the three family members should be buried together. What she would like is that the exhumation of Annalise’s remains should take place before the anniversary of the death of Mr Stokes and for a memorial to be erected in time for the anniversary. She is currently suffering much stress and anxiety about the situation.
6. I am not absolutely certain but it does look as if the arrangements which Mrs Stokes now wishes to put in place might have been put in place in 2011 so that, strictly analysed, the case might be viewed as one involving “a change of mind”. Generally speaking, a change of mind does not amount to exceptional circumstances justifying exhumation².
7. I think that this would represent an over-rigorous approach. In 2011 Mr and Mrs Stokes would have imagined that their own deaths were distant. As it is, Mrs Stokes has suffered the double blow of her only daughter dying as a child and her husband dying suddenly while still

¹ She has reserved this grave.

² See *In re Blagdon Cemetery* [2002] Fam 299 (Court of Arches) at paragraph 36 (iii).

comparatively young. One may see that the creation of what is in effect a small family grave seems to Mrs Stokes a reasonable and sensible arrangement which will assist her grieving. Obviously she cannot precisely have envisaged her current circumstances in 2011 and probably did not at all imagine the early death of Mr Stokes.

8. I do appreciate that it can be said that the remains of Annalise do presently lie comparatively close to those of Mr Stokes and no doubt to some people that might be comfort enough. However I think one may readily appreciate why a grieving mother and widow might wish the remains to lie together.
9. In the end, I have decided that exceptional circumstances justifying exhumation do exist in this case. The establishment of what is in effect a family grave will be expressive of family unity, which should be encouraged³. If triple depth plots had been available in 2011 the present difficulty would not have arisen. In 2011 Mrs Stokes did not anticipate the sudden death of her husband. This is not a “portable remains” case, where exhumation is generally to be discouraged⁴; and the relevant remains are to be moved only a short distance. The grant of permission will give Mrs Stokes considerable comfort⁵.
10. Accordingly, I direct that a faculty should issue.

PHILIP PETCHEY

Chancellor

10 June 2021

³ *Ibid*, see paragraph 36 (vi).

⁴ See paragraphs 27 and 36 (i).

⁵ The death of Mr Stokes will have been made more difficult because it occurred during the currency of the Covid pandemic.