

Neutral Citation Number: [2016] ECC Liv 4

IN THE CONSISTORY COURT IN THE DIOCESE OF LIVERPOOL

AND IN THE MATTER OF CYRIL JONES (DEC'D)

Sir Mark Hedley, Chancellor

JUDGMENT

1. This Petition is for the exhumation of the mortal remains of Cyril Jones (deceased) which were interred on 24 June 1990 at St Margaret's Orford. All necessary consents have been obtained and there has been compliance with all Directions and requirements.
2. On 20 September 2015 Mr Jones' widow, Esther, died and was interred in Fox Covert Cemetery. It is the wish of the family, in compliance with the strongly expressed wishes of their late mother, that the remains of Cyril Jones should be re-interred with those of their mother in a family grave created in Fox Covert.
3. The evidence provided by the family (which I have no reason to doubt) is that from the earliest times of Mr Jones' interment, Mrs Jones believed that she had made a serious mistake in that there would be no space to allow her burial there or for their remains to be placed together in a family grave. Moreover, Mrs Jones felt it would not be right to seek an exhumation whilst she herself was still alive.
4. The basic rule is that Christian burial is permanent and that there must be no interference with it save for good and proper reason. In considering that, the Chancellor must follow the guidance laid down by the ecclesiastical appellate courts. In short I may only allow an exhumation in exceptional circumstances.
5. Moreover, a change of mind, issues of accessibility or a desire to implement the wishes of another will not of themselves amount to a good and proper reason. Again I have to recognise that the longer remains have in fact been buried, the more difficult it may be to find exceptional circumstances.

6. These cases are always difficult because the request means so much to those applying and the granting of such a request does no harm to any other person. Yet the Chancellor is the guardian of the peaceful rest of the departed and is to be astute in that role.
7. What then can be advanced here as exceptional circumstances? I have in this respect considered both the Petition and the letter from Mrs Gaynor Charlton (daughter) dated 11 January 2016. In my judgment there are only three matters that may be taken into account: first, that Mrs Jones made a mistake in interring her late husband's remains in a full garden, a mistake which she regretted almost from the outset; secondly, that Mrs Jones delayed seeking exhumation on the grounds of her own personal belief that she felt that such would be inappropriate in her lifetime; and thirdly, there is now a desire to create a family grave.
8. The church has always encouraged the creation of family graves. On the other hand this exhumation relates to an internment that occurred over 25 years ago. It seems to me that all the above comprehends all relevant matters.
9. I have given this matter my closest, most anxious and (it must be said) most sympathetic attention. In the end I have just felt able to conclude that these matters, when considered together, do constitute exceptional circumstances in this particular case, one very much decided on its own facts. Accordingly I grant the faculty sought subject to the usual conditions.

Mark Hedley

8th February 2016