

Neutral Citation Number: [2020] ECC Swk 3

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF LAMBETH CEMETRY

AND IN THE MATTER OF A PETITION BY MS JOYCE MILLER

### JUDGMENT

1. This is the petition of Ms Joyce Miller who seeks permission to exhume the cremated remains of Thomas Heron and Margaret Heron<sup>1</sup> (the brother and sister of James Heron) from a plot in the consecrated part of Lambeth Cemetery. Lambeth LBC, which runs the Cemetery, has no objection to a faculty being granted.
2. The position in this case is that Joyce Miller was the partner of James Heron. In 1991, Mr Heron bought a double grave plot in the Cemetery, intending it for his mother and, in due course, for himself. When his mother died shortly afterwards her body was buried in the plot. Subsequently Thomas and Margaret died. Mr Heron agreed to their cremated remains being interred in the plot. In doing this, he apparently did not realise that this might cause any complications when he died - when his relatives and loved ones sought to honour his wish that his body be buried in the plot (he did not wish to be cremated). It did however create a complication in that it is necessary for the remains of Thomas and Margaret to be exhumed before Mr Heron's body can be buried in the plot.
3. Mr Heron died on 9 April 2020 and his funeral is arranged for 2 June 2020. Ms Miller now seeks a faculty to enable the funeral to go ahead as Mr Heron planned. It is intended that the remains of Thomas and Margaret be re-interred in the same plot on the same day.
4. Christian burial should be permanent and permission for exhumation is granted only exceptionally (see *In re Blagdon Cemetery* [2002] Fam 299). Had Mr Heron thought about it, he would have wished to avoid the need to exhume the remains of Thomas and Margaret. However if permission be granted, the end result is a good one because the remains of four family members will be interred together, marking family solidarity.
5. It seems to me that the exceptionality test may not be appropriate in circumstances such as these where what I am considering are arrangements to ensure that the cremated remains continue to be interred in the same grave. However that may be, I am satisfied that the circumstances are, in any event, appropriate ones in which to make an exception (see per Cameron QC, Dean in *In re Blagdon Cemetery* at paragraph 33) and I direct that a faculty should issue. I leave the detailed arrangements to Ms Miller and the cemetery authority. I know that they will both wish to organise matters in a way that will respect the remains that are to be exhumed and re-interred.

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<sup>1</sup> I do not know if Margaret was married. If so, I am sorry that I have not been able to use her married name, which was not supplied with my papers.

6. This petition comes to me during the coronavirus pandemic with all the difficulties that it has caused; particularly to those who are bereaved during this period. I extend my sympathy to Ms Miller and her family at this difficult time.

PHILIP PETCHEY

Chancellor

14 May 2020