



Neutral Citation No. [2016] ECC Oxf 1

**IN THE CONSISTORY COURT OF  
THE DIOCESE OF OXFORD**

Date: 15<sup>th</sup> March 2016]

**Before :**

**THE REVEREND AND WORSHIPFUL ALEXANDER McGREGOR  
CHANCELLOR**

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**In the matter of :**  
**THE PETITION OF MANDY RAMSHAW**

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Determined on consideration of written representations

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**JUDGMENT**

## **The Chancellor:**

1. Miss Mandy Ramshaw has submitted a petition for a faculty to authorise the exhumation of the cremated remains of her late mother, Jacqueline Ramshaw from the churchyard of St Margaret, Mapledurham with the intention of re-interring them in Chester-le-Street Cemetery in County Durham.
2. The facts are set out in Miss Ramshaw's petition. Her mother, Jacqueline Ramshaw died on 25<sup>th</sup> May 1985, aged 55, and the interment of her cremated remains took place on 3<sup>rd</sup> June that year.
3. Miss Ramshaw, with her parents, had moved from the North East of England to Reading in 1967. While they continued to live in Reading Miss Ramshaw and her father visited Jacqueline Ramshaw's grave each week. They moved back to the North East in 2000 and Miss Ramshaw relates in her petition how she and her father found it difficult emotionally not to be able to continue with these regular visits. Miss Ramshaw gave up work to care for her father in 2008.
4. Miss Ramshaw's father died in July last year. He indicated in his will that he wanted his cremated remains to be buried with those of Jacqueline Ramshaw.
5. Miss Ramshaw has made inquiries of the parish administrator at Mapledurham and has been informed that while some of the plots in the churchyard contain the cremated remains of two people, it is not possible to confirm that her mother's plot would be able to accommodate her own cremated remains in due course, in addition to those of her mother and father. Miss Ramshaw now believes it likely that in order for any further remains to be interred in her mother's plot, it would be necessary to remove her mother's cremated remains so that the plot could be dug deeper.
6. Miss Ramshaw has acquired a plot in the local cemetery in Chester-le-Street which would be able to accommodate the cremated remains of her mother and her father and, in due course, her own. Details of that plot are given in the petition.
7. The Court of Arches – the appeal court from the diocesan courts in the Province of Canterbury – established the principles of law governing exhumation from consecrated ground in the case of *In re Blagdon Cemetery* [2002] Fam 299. It also issued guidelines as to how the law should be applied. The Court of Arches' decision – so far as it settled the relevant law – is legally binding on this court, as it is on all other diocesan courts in the Province of Canterbury.
8. In *Blagdon* the Court of Arches held that there was a presumption that Christian burial was permanent, that remains should not be portable, and that a faculty for exhumation would only exceptionally be granted. According to the Court of Arches, "Exceptional means 'forming an exception' (Concise Oxford Dictionary, 8th ed (1990)) and guidelines can assist in identifying various categories of exception. Whether the facts in a particular case warrant a finding that the case is to be treated as an exception is for the chancellor to determine on the balance of probabilities." It is for a petitioner to satisfy the court on the balance of probabilities that there are special circumstances which constitute good and proper reason for making an exception to the norm that Christian burial is final.

9. The guidelines provided by the Court of Arches can be summarised as follows:
  - a. Advancing years, deteriorating health and moving to a new area are not in themselves adequate reasons for permitting exhumation. Any medical reasons relied upon by a petitioner have to be very powerful indeed to create an exception to the norm of permanence, for example, serious psychiatric or psychological problems where medical evidence demonstrates a link between that medical condition and the question of location of the grave of a deceased person to whom the petitioner had a special attachment.
  - b. The passage of a substantial period of time since burial will not in itself be fatal to a petition, although it might be potentially relevant in assessing the genuineness of the petitioner's case.
  - c. Since double and triple graves in which the remains of members of the same family could be buried together were to be encouraged, the bringing together of family members' remains in a single grave can provide special reasons for permitting exhumation despite the lapse of a long period of time since burial. But where no burial had yet occurred in a family grave clear evidence as to the existence of a legal right to such a grave would be required to justify exhumation.
  - d. Although mistake as to the location of the grave or, in certain circumstances, as to the significance of burial in consecrated ground could be a good and proper reason, mere change of mind as to the place of burial by those responsible for the interment could not.
  - e. Although the views of close relatives were a very significant factor, the amount of local support for the petition would normally be irrelevant.
  - f. In view of the desirability of securing equality of treatment between petitioners so far as circumstances permitted, the court has to take into account the impact its decision is likely to have on other similar petitions. The Court of Arches referred to “the desirability of securing equality of treatment, so far as circumstances permit it, as between petitioners.”
10. In her petition, Miss Ramshaw says she considers herself bound to honour her father’s wishes, as expressed in his will, that his remains should be interred with her mother’s.
11. She states that being an only child and single, she finds the thought of the grave of both her parents being 300 miles away from where she lives – and the resulting inability to tend their grave – “an awful prospect as it is emotionally very important to me for us not to be torn apart from one another”.
12. She points out that even if her father’s remains were to be interred at Mapledurham, it would still be necessary for her mother’s remains to be exhumed in order to make room. She therefore asks that the court look favourably on her request “to move my mother’s ashes to a location where all the members of the family can be together in the place where we felt we belonged”.

13. Miss Ramshaw also asks, in the petition, that the court take her mother's wishes into consideration. She had not chosen to move to Reading, her preference having been to stay in the North East.
14. In accordance with the directions I gave when ordering determination of the petition on consideration of written representations, Miss Ramshaw has submitted a further letter confirming that her mother has no surviving siblings and that she (Miss Ramshaw) is her only child.
15. In that letter Miss Ramshaw adds that if her petition is not granted she will be "left with nothing, with my parents being laid to rest in an area that no longer holds any significance for them."
16. She also encloses a letter from a friend which describes how she cared for her father which leaves no doubt as to her devotion to him.
17. The Rector of Caversham, Thameside and Mapledurham has written to Miss Ramshaw's solicitor stating that he does not object to the exhumation in principle. He also states that the plots in Mapledurham churchyard normally contain only one set of ashes but that Jacqueline Ramshaw's plot could be re-dug to accommodate more than one set of cremated remains. His letter is before the court.
18. I have to determine this petition in accordance with the principles of law, and applying the guidelines, set out in *Blagdon* (above). While I do not underestimate the way in which the situation is affecting her emotionally, I hope Miss Ramshaw will understand that I am obliged to take into account only those matters which are relevant to those principles of law and those guidelines.
19. It is for Miss Ramshaw to satisfy the court on the balance of probabilities that there are special circumstances which constitute good and proper reason for making an exception to the norm that Christian burial is final.
20. The fact that Miss Ramshaw and her father moved back to the North East 16 years ago, and that she is therefore separated from the place of her mother's grave by some 300 miles, is not a matter which amounts to a special circumstance. The Court of Arches was clear in *Blagdon* that moving to a new area was not in itself an adequate reason for permitting exhumation. And while I can understand the emotional effect of the separation, there is nothing here which approaches the sort of "serious psychiatric or psychological problems" referred to by the Court of Arches, "where medical evidence demonstrates a link between that medical condition and the question of location of the grave of a deceased person to whom the petitioner had a special attachment".
21. A considerable period of time has elapsed since Jacqueline Ramshaw's death. And even if no considerations of distance and separation arose until Miss Ramshaw and her father returned to the North East in 2000, fifteen years have passed since then.
22. However, I consider that the most substantial aspect of Miss Ramshaw's case is her intention "to move my mother's ashes to a location where all the members of the family can be together in the place where we felt we belonged". The burial together of the remains of all the members of the family in the triple plot at Chester-le-Street cemetery – which is identified by plot number in the petition – is, according to the

Court of Arches, to be encouraged and can provide special reasons for permitting exhumation despite the lapse of a long period of time since burial. I accept that Miss Ramshaw genuinely intends to create a family grave of this nature. And in light of what the Court of Arches has said, the lapse of a substantial period of time since the original burial will not prevent such an intention amounting to a special reason for permitting exhumation.

23. On that basis, I am satisfied that in this case there are special circumstances which constitute good and proper reason for making an exception to the norm that Christian burial is final.
24. I note that the Court of Arches said that where no burial had yet occurred in a family grave, clear evidence as to the existence of a legal right to such a grave would be required to justify exhumation. While, as I have said, details of the plot, including the section and plot number, are given in the petition, I have not yet been provided with any documentation showing that Miss Ramshaw has acquired an exclusive right of burial there for her own and her parents' cremated remains.
25. Miss Ramshaw may have 21 days from receipt of this judgment to provide the Registry with a copy of the grant to her of an exclusive right of burial in the plot in Chester-le-Street cemetery. If she does so, and that the grant is as described in the petition, there will be a decree for a faculty authorising the exhumation of the cremated remains of Jacqueline Ramshaw from Mapledurham churchyard on condition that they are re-interred as soon as reasonably practicable in the plot in Chester-le-Street cemetery details of which appear in the petition.