

In the consistory court of the Diocese of Lincoln

In the matter of the parish burial ground of Skidbrooke in the parish of Saltfleetby

And in the matter of Mr Graham George Marston, deceased

### JUDGEMENT

1. By an application dated 1 December 2011 the Petitioners apply for the exhumation of the cremated remains of George Graham Marston, deceased, who died on 18 October 1998 and whose ashes were interred in a hardwood casket in September 1999. They seek permission to exhume those ashes to be interred with those of his wife Anne Margaret Marston who died in May 2011 and whose ashes have yet to be interred.

2. On 8 November 2011 the Parish Council responsible for the Skidbrooke burial ground and East Lindsay DC environmental health department have given their consent. It should be noted that the body that needs to give their consent is not the Parish Council, but the Parochial Church Council (the PCC) of St Botolphs Church who are the relevant parish church responsible for the consecrated part of the burial ground. They will need to be contacted. A licence has been granted by the Ministry of Justice dated 25 November 2011.

3. It is proposed to inter the ashes of both Mr and Mrs Marston together in a family plot at Bramcote Crematorium in grave No A154 Chilwell Cemetery, Field Lane, Chilwell, Nottingham and the relevant permission from them has been obtained on 4 November 2011.

4. In support of the application the Petitioners submit:

(i) Mr Marston died suddenly during a Boys Brigade service at aged 53 in 1998 at Saltfleetby. He had attended many BB camps there over the years. He had expressed no wish as to where his ashes were to be interred. He lived in Nottingham with his wife and family.

(ii) Mrs Marston was very depressed after this sudden loss and decided eventually to inter his ashes at Saltfleet because of the links with the BB and it was where he had

died. It was not possible to bury the ashes there but at a nearby burial ground in consecrated ground set apart for the reception of ashes.

(iii) Mrs Marston reserved a plot for herself next to the plot where her husband's ashes were placed.

(iv) Mrs Marston and the family lived in Nottingham some 80 miles away and it was soon realised that this distance meant that it had been a mistake to inter the ashes at Skidbrooke. However it was only when Mrs Marston became seriously ill in 2011 that she became distraught at the thought of being interred with her husband's ashes in Skidbrooke so far away from her family. In a note that I have seen she made clear her wish to be buried locally. She also wished to be buried close to her husband's ashes.

(v) all the family support this application to exhume Mr Marston's ashes so they can be interred with Mrs Marston's ashes in Chilwell Cemetery at Nottingham ( operated by Bramcote Crematorium) . I do not believe that it is consecrated ground.

5. In considering this Petition it is important that the Petitioners understand the law that I must apply, which is founded upon a Christian understanding of what burial of the body ( or the interment of ashes) signifies. The principles by which an exhumation from consecrated ground is permitted are well known and set out in the case of In Re Blagdon Cemetery 2002 Fam p299.

6. The presumption is that burial of human remains in consecrated ground is permanent. This presumption arises from the Christian theology of burial which was set out at para 23 of the judgement in Blagdon in the quotation from The Bishop of Stafford's paper on the 'Theology of Burial'. He wrote

“ The funeral itself articulates very clearly that its purpose is to remember before God the departed; to give thanks for their life; to commend them to God the merciful redeemer and judge; to commit their body to burial/cremation and finally to comfort one another.”

He went on to explain:

“ The permanent burial of the physical body/ the burial of the cremated remains should be seen as a symbol of our entrusting the person to God for resurrection. We are commending the person to God, saying farewell to them (for their ‘ journey’), entrusting them in peace for their ultimate destination, with us, to the heavenly Jerusalem. The commending, entrusting, resting in peace does not sit easily with ‘portable remains’ which suggests the opposite: reclaiming, possession, and restlessness; a holding onto the ‘symbol’ of human life rather than a giving back to God”

7. The principle of permanence can only be departed from if there are special circumstances which justify an exception to the principle that Mr Marston was laid to rest in 1999 and his remains should not now be disturbed.

8. The Court of the Arches in Blagdon identified various factors which may support a submission that special circumstances have arisen which permit the remains to be exhumed. These factors are:

(i) medical reasons.

The Court made it clear that the only medical reasons which could assist a petitioner in these circumstances would be those which showed quite clearly that a serious psychiatric or psychological problem had arisen caused by the location of the grave to whom the petitioner had a special attachment. The Court made it quite clear mere decline in health and mobility due to advancing years could not be a reason which would displace the presumption of permanence.

There is no suggestion here of the necessary serious psychiatric illness linked to the location of the grave, nor is it suggested.

(ii) lapse of time.

The Court held that the passage of a substantial period of time before an application for exhumation was made could not be determinative of the application in itself. However, it would be a factor in assessing the genuineness of the Petitioners case.

In this case the delay of 12 years before presenting the Petition is a factor I must weigh up. There has been an explanation as to reason for the application being made now after 12 years. They have not interred Mrs Marston's ashes until the outcome of this application.

(iii) mistake.

Where there has been a simple error in administration, such as burial in the wrong grave, the Court held that faculties for exhumations could readily be granted. Of more difficulty is where there is a failure to understand or appreciate the significance of burial in consecrated ground in a municipal cemetery. In the case of In re Crawley Green Road cemetery, Luton 2001 Fam 308 the family of a humanist was permitted an exhumation on this ground: also In re Durrington Cemetery 2001 Fam 33 orthodox Jews were permitted to exhume. The Court emphasised the need for greater clarity about the significance of burial in consecrated ground in cemeteries.

There has been no mistake in the burial place here. Although it seems that having made the decision to bury the ashes at Skidbrooke Mrs Marston regretted the decision.

(iv) precedent.

The Court held that consideration of the effect of precedent by the grant of the application is properly made because of the desirability of securing equality of treatment, so far as circumstances permit between petitioners.

I take this issue in to account.

(v) family grave

The Court held that the use of family graves are to be encouraged because they both express family unity and they are environmentally friendly in demonstrating an economical use of the land for burials. In a letter dated 19 January from the bereavement services manager at Bramcote Crematorium who confirms that the ashes of both Mr and Mrs Marston will be placed together in a single grave.

9. I am satisfied that it is permissible due to special circumstances to permit the exhumation of Mr Marston's ashes for interment into the same grave as that of Mrs Marston. The basis for this is that it is a family grave and such arrangements are to be encouraged in the expression of family unity, as well as being environmentally friendly.

10. This permission is subject to the following:

(i) the undertaker confirming that the ashes of Mr Marston would be recoverable in the hardwood casket interred in 1999, and

(ii) the PCC of St Botolphs ( who I understand are the relevant parish church in respect of that part of the burial ground which is consecrated) give their agreement to the exhumation. If they do not agree , the matter should be referred back to me ( with their reasons for so refusing their agreement) for further directions.

11. A faculty is issued subject to these conditions.

Mark Bishop

Chancellor

20 February 2012