

In the Consistory Court of the Diocese of Salisbury

In the Matter of Shaftesbury, St James

Judgment

1. Nigel and Peter Collis, the only children of Doris Eileen Collis, have petitioned for a faculty for the exhumation of her cremated remains from the churchyard of St James in Shaftesbury for their reinterment in another part of the same churchyard.
2. Mrs Collis' remains were buried in the churchyard of St James' church in 2012 in the grave where the remains of her parents, Mr and Mrs Mullins, had been interred upon their deaths in 1953 and 1995 respectively. Her husband, Mr Raymond Collis, died in August 2018. Their sons now seek to exhume their mother's ashes in order that they may be buried in a new grave in another part of the churchyard together with her husband's remains. Mr and Mrs Collis were married for 59 years.
3. Given the involvement of three Mr Collises in these proceedings, I hope that it is accepted as meaning no disrespect by referring to each of them by their first name in order to avoid confusion.
4. Raymond left clear instructions in a letter to his family that he wished for his ashes to be placed "in next to Mum". Nigel and Peter want to fulfil that wish in the way described above. They say that it would be "extremely problematic" to inter their father's ashes in the grave where their mother's remains are now buried. They give three reasons for that, namely:
 - a. That it does not seem dignified to either of their parents to have Raymond's ashes interred as a fourth set of remains in the existing grave;
 - b. That the existing headstone does not have space to include details of the burial of Raymond's remains;
 - c. That it would not be appropriate to include Raymond's details on the existing "Mullins" headstone in any event as he was a Collis.
5. Nigel and Peter have provided information to support their Petition in letters dated 15 February 2019 and 6 October 2018. The funeral directors have confirmed that there should be no practical difficulty in identifying and exhuming Mrs Collis' remains. The PCC have indicated that they are "happy to let the Diocesan Chancellor make the decision" in this case.

6. The incumbent of the parish, the Reverend Chambers, has confirmed that there is no practical reason why Raymond's remains cannot be buried in the existing family grave, but points to the pastoral concern which arises from Nigel and Peter's view that it would be "problematic". The Reverend Chambers also confirms that there would be space for the interment of Mrs Collis' remains together with those of her husband in a new plot in the ashes area of the 'New Churchyard' which is to the west of the church.
7. Nigel and Peter acknowledge that, if the exhumation were permitted, the existing headstone would need to be changed or amended. It currently shows the details of Mr and Mrs Mullins and those of Mrs Collis. Memorials should accurately reflect the burials which they record and if Mrs Collis' remains were reinterred as proposed, without change to the existing headstone it would appear, incorrectly, that she was interred in two locations within the churchyard.
8. The leading authority on the issue of exhumation is the decision of the Court of Arches in *Re Blagdon Cemetery* [2002] Fam 299. That case restates the presumption against exhumation and in favour of the permanence of Christian burial in consecrated ground. This presumption arises from the Christian theology of burial reflected in a paper from the then Bishop of Stafford which the Court in *Blagdon* considered. The Bishop of Stafford 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."

9. Special reasons must exist before an exception to the principle of permanence can be justified. The Court of the Arches in *Blagdon* identified various factors which, whilst not exhaustive, might be relevant to whether special reasons exist. In determining a petition the Chancellor must weigh up any relevant factors in order to decide whether special reasons have been made out.

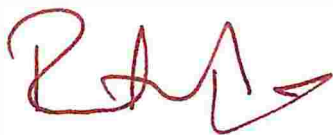
10. Not all of the factors referred to in *Blagdon* are relevant in this case, but one which is relevant is the question of whether a mistake was made at the time of burial. This is not a case where Nigel and Peter seek to correct an ordinary administrative mistake, such as in those cases where remains have mistakenly been buried in a plot reserved for someone else. Prior to her death, Mrs Collis had long expressed a wish to be buried in her parent's grave should she predecease her husband as she "did not want to be alone"; Raymond intentionally chose to inter his wife's remains there, presumably to honour that request.
11. It is said that it was always understood by the family (which I take to mean Raymond, Nigel and Peter) that that should be a temporary arrangement until Raymond died and his remains could be buried elsewhere, together with those of Mrs Collis.
12. I find it surprising that if Raymond had intended the burial of his wife's cremated remains to be a temporary arrangement he does not appear to have raised this with the incumbent at the time of the burial. Had he done so he would surely have been told of the strong presumption of permanence in Christian burial. It is also surprising that he chose to engrave the existing headstone, which commemorates the Mullinses, with his wife's details if he believed that her remains would, in the not too distant future, be relocated elsewhere, thus requiring an amendment to that headstone. Both of those factors suggest that Raymond intentionally chose to inter his wife's remains in accordance with her final wishes as her final resting place. His own written request that his remains be "placed in next to Mum", without any reference to the disturbance or relocation of her remains, supports that suggestion. In short, I do not think that there was any relevant mistake by Raymond at the time of the burial of his wife's remains in 2012 which might support a finding of special reasons. The Court of Arches in *Blagdon* made clear that "a change of mind as to the place of burial on the part of relatives ... should not be treated as an acceptable ground for authorising exhumation." [para 36(iii) of the judgment].
13. Turning to other factors, although the passage of time can militate against the grant of a faculty for exhumation, I do not find that it does so here. Although it is just over six years since the burial, the application was clearly made promptly upon the death of Raymond, which was the catalyst for the application.
14. One of the factors which has been found to assist in establishing special reasons which could justify exhumation is the desire to establish a family grave; family graves are to be encouraged as expressive of family unity and an environmentally friendly and economical use of the land for burials. I find that that is only a neutral factor here. Although a family grave would be established by the burial of the remains of Mrs Collis and her husband in the New Churchyard, there already exists a family grave in this case and that same family unity and economic use of land can still be expressed, arguably more clearly, by the interment of Raymond's remains in that existing grave. Although Nigel and Peter have said that the addition

of those remains into the grave would be problematic, they give no reason for why that should be the case, save for the issue with the memorial discussed below. Family graves containing four or more sets of remains are common in churchyards up and down the country and serve as a touching visual reminder of the love and continuity within family life across generations.

15. Concern is expressed that there is no space to record Raymond's details on the existing headstone. I do not find that that, alone, is enough to establish the special circumstances needed to justify an exhumation. There is no reason why a ground plaque could not be introduced onto the grave recording Raymond's details. If it were preferred, an alternative solution would be to replace the existing memorial with an alternative headstone recording all four burials. The cost of such steps are unlikely to be significantly different from the cost of commemorating Mr and Mrs Collis at an alternative plot in the churchyard and replacing or amending the existing headstone to remove the reference to Mrs Collis. I do not accept that it would be inappropriate to commemorate Raymond at this grave simply because he was a 'Collis' rather than a 'Mullins'; Mrs Collis herself is already commemorated on that headstone under her married name of Collis.

16. It will be apparent from the above that, in considering the facts relied upon in this case, I cannot find that special reasons exist in this case which would justify an exception to the norm of permanence of Christian burial. Exhumation can only exceptionally be permitted. I know that this will cause real upset to Nigel and Peter and have great sympathy for them but I am unable to find a proper justification for this exhumation. I hope that they will find some comfort in the confidence that this does not prevent the fulfilment of their father's clearly expressed desire that his remains should be "placed in next to Mum" and that the fulfilment of those wishes will mean that both of their parents have been trusted into the safety of God's hands in the hope of future resurrection

17. In the circumstances I direct that the Petition must be dismissed.



Thw Worshipful Canon Ruth Arlow
Diocesan Chancellor

8 March 2019