

ST. PHILIP & ST. JAMES, UP HATHERLEY

**PETITION FOR THE EXHUMATION OF THE CREMATED REMAINS OF
PAMELA JOY LANGRIDGE, BY ROBERT LANGRIDGE**

JUDGMENT

The Petition:

1. Mr Robert Langridge has submitted a petition for a faculty to authorise the exhumation of the cremated remains of his late wife, Pamela Joy Langridge, from the churchyard of St Philip & St James', Up Hatherley, near Cheltenham in Gloucestershire, with the intention of either scattering them or re-interring them in Australia, where they both lived.
2. It has been difficult to establish the facts in this matter, since Mr Langridge initially was extremely distressed, and found the complexities of the ecclesiastical law relating to exhumation very confusing. The Petition did not contain all the information needed to establish a case and he had to be persuaded that it was really necessary for him to supply all relevant information. He wrote in an unfortunate style on occasion, which prolonged the process. He is based in Australia and has been in poor health, so there was no prospect of him coming to England and I have needed to have documentary evidence. The process has taken much time and many detailed conversations over the telephone from Australia with the Registrar. I accept that this process has taken far longer than any of us would have wished, but at last we have the necessary updating background material, and I am in a position to decide his application.

The factual background:

3. Mrs Pamela Langridge was born in Cheltenham on the 6th June 1947. She married Robert Langridge in Bristol on the 23rd May 1969 at a registry office. He had been born in Bristol in 1950. They went on to have three children, Sara, Emma and Martin. In June 1980, the entire family emigrated to Australia, where they were all granted Australian citizenship and have Australian passports. Mr Langridge retains dual citizenship and states that the family

regards Australia as their permanent place of residence. He continues to live in Perth and the three children have remained settled in Australia.

4. There are limited remaining links with this country. Mrs Langridge's parents, Charles and Clara Davis, are buried in the churchyard at Up Hatherley; and her younger sister, Eileen Davies (with slightly different spelling), lives in Cheltenham. Mr Langridge's brother, Philip Langridge, also lives in the UK.
5. Between early 2014, when Mrs Langridge was diagnosed with ovarian cancer, and her death on the 8th August 2017, her health rapidly declined. Although she was cared for in the last months of her life at home, she needed strong medication, including a permanent morphine drip, which understandably affected her ability to concentrate or think clearly. The effects of her existing significant hearing loss were also made worse by it being too uncomfortable for her to wear her hearing aids. I have been provided with evidence of the severe bilateral hearing loss which she had suffered since at least May 2007. It is very clear that meaningful conversation between the couple would not have been easy to achieve.
6. Mrs Langridge did not express written wishes about her burial. Her will merely left everything to her husband.
7. I have been sent a copy of Mrs Langridge's death certificate. After she died, there was a non-religious funeral service and cremation in Australia on the 24th August 2017.
8. Mr Langridge appears to have developed for himself the idea that his wife should have her ashes interred in her parents' grave at Up Hatherley, having assumed that this would become a family grave. It is clear that Mr Langridge was deeply emotionally upset during the period of his wife's illness and demise, and seems to have pursued the plan for burial in Up Hatherley without allowing discussion within the family or appreciation of his wife's firmly held views against religion. It seems, from what members of the family say in their letters and statements, that she was aware of his plans, but had a tendency not to oppose his wishes, for a quiet life. In an email of the 5th December 2018, Eileen Davies said that the two sisters had spoken in person three weeks before Mrs Langridge died and

they discussed her final wishes and that Pam: *'said she had only reluctantly consented to Bob's outdated romantic and religious views that her ashes, and his at a later date, should be buried in the same grave as our parents with a large gravestone listing the four people in the grave. Bob called Father Richard and the Archdeacon to try and get this done, but it couldn't because the previous Vicars had not kept proper records and their precise gravesite was therefore 'officially' unknown. Pam told me that she definitely did not want to be buried in Up Hatherley or anywhere in England for that matter.'* I accept that that tends to prove Mrs Langridge did not consent to his plans, but it may have been that Mr Langridge was misled by her apparent acquiescence.

9. Mr Langridge pursued the plan even when he encountered the problems in arranging a burial half way around the world, despite learning that burial in the same grave space was not possible, and that a large gravestone would not be permitted. Father Richard Dunstan-Meadows has provided a statement in December 2018 confirming some of these difficulties, although his recollection does not fully coincide with Mr Langridge's statement. Reading between the lines, it appears that Mr Langridge persuaded Father Richard that it was his wife's 'dying wish' to be buried with her parents. Despite the impossibility of establishing a 'family grave' when there would be no joint marked grave space, Mr Langridge pressed ahead with the burial in Up Hatherley and seems to have held the mistaken belief that even if the burial site was not at his parents-in-law's grave, that the ashes could be moved later on to be nearer. I feel sure from all I have read that if he had been in a good psychological state, and if he had discussed the plan more widely in the family, its unwisdom would have been impressed upon him.
10. Following the initial funeral service and cremation, in August 2017, Mr Langridge pursued his plan for a second funeral and burial in Gloucestershire. He arranged for his wife's ashes to be sent to her sister in about November 2017. He failed to allow the children to have any say in these plans. On arriving in the UK on the 7th March 2018, though, it seems he had begun to have second thoughts, and briefly mentioned this with his brother, Philip, who has confirmed such conversation in a note and has also set out the subsequent history. (Eileen Davies has also confirmed doubts were being expressed.) Unfortunately, Mr

Langridge fell seriously ill over the next few days and needed strong antibiotics from a hospital. He has said in his statement that he was too weak to contemplate cancelling the planned second funeral and the burial after having made such a fuss about it needing to happen. It took place on the 15th March 2018. Father Richard Dunstan-Meadows wrote that there were 15 people at the ceremony and that Mr Langridge was extremely pleased with how things had gone. Be that as it may, it appears that Mr Langridge was in the process of succumbing to pneumonia, and that this took many months to cure, after his return to Australia.

11. Mr Langridge was subsequently made aware, during the course of 2018, that his children were deeply upset by the burial in England. They explained in no uncertain terms that they disagreed with his decision to bury their mother's ashes in a churchyard in Gloucestershire.

12. Initially I had no indication of the three children's views, but I have now received three very helpful letters from them, each confirming their desire for their mother's ashes to return to Australia, where she had lived for more than half her life. Two of them have specifically confirmed that she was an atheist, and all three have been clear that she would not have wished to have a Church of England funeral. I am told there was a very serious rupture in their relationship with their father as a result of this. The elder daughter, Sara, who lives in Perth, has described the relocation of the ashes to England as being *'one of the most inappropriate and disrespectful events I've experienced. None of these arrangements would have been aligned to mum's wishes.'* She points out that: *'as a result of mum's ashes being interred in England, her immediate family have been, and continue to be robbed of the opportunity to pay our respects.'* The younger daughter, Emma, who lives at Footscray in Victoria, has written: *'I know for a fact that she had no desire for her remains to be removed from the country and taken to a church.'* She expressed concerns about her father's mental condition at the time he imposed the arrangements for the second funeral and burial. Their brother, Martin, also living in the State of Victoria, has written along similar lines, emphasising that all three wish to have their mother's ashes returned to Australia.

13. Eileen Davies has provided a statement in which she outlined the difficulties encountered in arranging the second funeral and burial and said that she strongly believes: *'that Pam always wanted to remain in Perth, Western Australia, with her family.'* She confirmed the passage in her previous email: *'Pam had told me that she definitely did not want to be buried in Up Hatherley or anywhere in England for that matter.'*
14. In addition to the family information, I have now received clear evidence from Mr Langridge's medical practitioner in Perth, dated the 10th October 2019, about Mr Langridge's extreme distress, sorrow and personal guilt arising from the mistaken burial of his wife in England.
15. Mr Langridge now wishes to have his wife's ashes scattered (or buried) in unconsecrated ground at the Karrakatta Cemetery where he and her children will be able to visit her grave. He has provided a letter from the Client Services Officer of the Metropolitan Cemeteries Board to confirm this. (This was a change from his original proposal which had been unthought out – it suggested burial at a cemetery which is closed to further burials.)
16. I accept, in the light of the documents which have been provided to me, that this has the approval of all three of the adult children, and of Pamela Langridge's sister.
17. I had concern that his wife's ashes might not be recoverable, having been 'poured into a hole' rather than buried in a casket, but I have been reassured through the Registrar's researches, that the location has not been used by any other burial subsequently, and that it is not anticipated that there will be any difficulty in recovering the ashes from a grave which has been diligently tended by her sister (although her ability to continue with this task has diminished, with her other responsibilities and her own age).
18. The undertakers, Rowland Brothers, are, I am told, willing to give the necessary undertaking to exhume and arrange the reinterment in a reverent manner and to comply with instructions from the Local Medical Officer of Health. I presume that the undertakers in Western Australia will also be willing to provide the necessary assurances.

The legal background to a request for exhumation:

19. Mr Langridge has been made aware over the last year of my sympathy at his personal distress about these circumstances, but that my discretion to express that sympathy is limited by the rules which apply to all burials under the jurisdiction of the Church of England and by the need to have very full information about all the circumstances. By having his wife's ashes buried in consecrated ground, he has brought her burial under those rules. These include a presumption about the permanence of Christian burial. The presumption is set out in many decisions: for example: in the case of *Re Church Norton Churchyard*,¹ Chancellor Quentin Edwards QC recorded that:

"... the court ... should begin with the presumption that, since the ... ashes have been interred in consecrated ground and are therefore in the court's protection, or in Wheatley's words, "safe custody", there should be no disturbance of that ground except for good reason. There is a burden on the petitioner [that is Mr Langridge, here] to show that the presumed intention of those who committed the ... ashes to a last resting place is to be disregarded or overborne...."

20. It is important to note that this presumption arises out of the Christian theology of burial² which looks to burial being final, and which looks at the permanence of the resting place:

"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 ...cremation and finally to comfort one another...

The permanent 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. ...'

21. There is a similar approach to be found in the 'Guidance for best practice for treatment of human remains excavated from Christian burial grounds in England'³ which records:

"... it is central to Christian theology that, after death, the human body ceases to have any significance for the ongoing resurrected spiritual life of the individual. However, following death, the physical remains should be treated

¹ [1989] Fam 37,39

² Making reference to the Rt Rev.Christopher Hill, Bishop of Stafford's paper on the 'Theology of Burial'

³ English Heritage and the Church of England 2005

with respect and reverence, even though ultimately it is the fate of the soul, rather than the physical remains, which matters ...”

22. A parallel approach is to be found in secular law in England, which makes it a criminal offence to disturb human remains without lawful permission and makes it clear that there is no legal right to exhume human remains. This confirms the normal position, that the remains of a deceased person should not be disturbed once they have undergone the initial act of interment.

The legal distinctions in this case, permitting an exception to be made on the basis of an operative mistake:

23. In the light of all the information I have received, it is now completely clear to me that Mrs Langridge lacked adherence to Christian theology and was firmly an atheist. It has become apparent that she had never been to church before she met her husband; she insisted on being married in a registry office; she objected to her husband’s decision to send their children to an Anglican College in Perth (though he over-ruled her, due to his own preferences); and she did not express any religious beliefs. Mr Langridge now accepts he incorrectly assumed she shared his general religious beliefs, but can see that he was incorrect and feels he has mistakenly imposed on her and the family a Christian burial she would never have wished to have.

24. Article 9 of the European Convention on Human Rights, which has the force of law in England by the Human Rights Act 1998, provides an argument that there may have been a breach of Mrs Langridge’s right ‘*to freedom of thought, conscience and freedom, either alone or in community with others and in public or private, to manifest her religion or belief, in worship, teaching practice or observance*’ by insisting that she be bound to Christian norms of belief and therefore cannot be exhumed from a Church of England churchyard. Support for this view is to be found in the successful applications for the exhumations of a Jew⁴; of a Humanist⁵, of a number of Roman Catholics⁶; and

⁴ *In re Durrington Cemetery* [2001] Fam 3

⁵ *In re Crawley Green Cemetery* [2001] Fam 308

⁶ *In re South London Crematorium Streatham* [2002]; *In re Lambeth Cemetery* [2003] and *In Putney Vale Cemetery (Guadagno)* [2010]

of Buddhists⁷: all of whom were held to have been mistakenly been buried in Church of England consecrated ground, and whose exhumation and reburial was permitted.

25. The question for me is whether Mrs Langridge's complete lack of Christian belief, in the form of atheism, coupled with the information that she did not wish to be buried in England, is equivalent to those precedents involving different beliefs.
26. I am satisfied that a case is made for the similarity. Mr Langridge made a significant and operative mistake in giving his wife a Church of England burial and it would now be wrong to insist that he should be prevented from securing her exhumation by reliance upon the Church of England's doctrines of permanence of burial to which she personally did not adhere.
27. I also accept that there was a fundamental and operative mistake about the nature of the resting place as part of a 'family grave', or with a joint gravestone, when that was also plainly not possible.
28. There are also significant similarities with other recent faculty decisions which are worth noting, concerning operative mistakes, and the extent of 'profound regret' for a hasty decision taken at a time of serious grief⁸.
29. It is particularly important to note that Mr Langridge did not delay in seeking the return of his wife's ashes, once he had recovered from his serious pneumonia and come to a realisation of the mistake he had made. Prior to his Petition, which was sent by various emails in November and December 2018, he made a number of approaches to the Archdeacon and the Senior Churches officer, Natalie Fenner, following the retirement of Father Richard Dunstan-Meadows in September 2018. He had been corresponding on this issue with Father Richard, in July or August 2018 on the subject. Between the burial in March 2018 and those emails, only four months elapsed, and I am satisfied that his recovery from his immediate illness was a significant factor.

⁷ *In Putney Vale Cemetery (Hong)* [2014] and *In Putney Vale Cemetery (Dong Hong)* [2016]

⁸ *In re David Ernest Newton, deceased* [2018] ECC She 1 and *In the matter of Hither Green Cemetery* [2018] ECC Swk 3

Decision:

30. I am satisfied that Mr Langridge has made out his case on the grounds of mistake and I grant a faculty for the exhumation of the ashes of Pamela Joy Langridge and for their removal from the country to be re-buried or scattered in Australia.
31. This permission for exhumation will be subject to the undertakers both in England and in Western Australia giving the appropriate agreements in the form required by the Diocese for the proper transfer to the ashes between the two countries.
32. I direct that there is no requirement for the ashes to be laid to rest in consecrated ground in Australia, given that Pamela Langridge was an atheist.
33. I direct that Mr Langridge should pay the cost of his application for the faculty and for the reasonable correspondence costs which have been occasioned by his application.

Alicia Collinson, Deputy Chancellor, Gloucester

2nd February 2020