

In the Consistory Court of the Diocese of Bradford

In the Matter of a Petition by Angela and Denis McCarthy for a Faculty to exhume the remains of Adrian Joseph McCarthy

JUDGMENT

1. This is a Petition by Angela and Denis McCarthy for a faculty authorising the exhumation of the cremated remains of their son Adrian Joseph McCarthy who died on 11th March 2000 and whose remains were interred on 12th July 2000, from Waltonwrays Cemetery, Skipton so that they can be scattered at Three Cliffs Bay in South Wales.. The reasons for the application are set out in the letter from the first named Petitioner dated 21st March 2010 .The Petition is not opposed by the Craven District Council , who own the cemetery . In his letter dated 8th April 2010 , Michael Brown , the Council's Bereavement Services Manager , asks that " some consideration be given to Mrs. McCarthy's letter with regards to advice that she may have been given by staff at the time of the interment with regard to possible exhumation at a later date ".
2. In determining this Petition, the question which I have to decide is whether there are special circumstances which justify the making of an exception from the norm that Christian burial [that is, burial of a body or cremated remains in a consecrated churchyard or the consecrated part of a local authority cemetery] is final. The Petitioner needs to satisfy me on a balance of probabilities that there are such special circumstances.
3. The leading decision of the Court of Arches of in re Blagdon Cemetery sets out factors which commonly arise in connection with petitions for faculties for exhumation and identifies those which should and those which should not properly be taken into account .These identified factors are not intended to be exhaustive ,but they do provide guidance .I must exercise my discretion in the light of all the facts of the case , recognizing as I do how painful these cases are for Petitioners, but having due regard to the principle that a faculty for exhumation should only exceptionally be granted.
4. I can identify no exceptional circumstances which could enable me properly to exercise my discretion to grant this Petition. Advancing years and/or changes of residence and/or an inability or unwillingness to visit what is deemed to be a final resting place cannot , without more, justify exhumation.

5. The only aspect of the case which troubles me is what may have induced what Mrs. McCarthy describes as " the understanding that there would not be a problem if , at a later date , we changed our minds". It would be irresponsible and contrary to Christian theological principles for anyone to tell the McCarthys or even to imply that cremated remains interred in consecrated ground could readily be moved without compelling reason.
6. The judgment of the Arches Court of Canterbury in the Blagdon Cemetery case – admittedly delivered in April 2002 – contained the following passage :

" It is important that any guidance issued by cemetery managers or funeral directors should make it clear that permanence of burial is the norm in relation to consecrated land , so that remains are not to be regarded as " portable "at a later date , because relatives move elsewhere and have difficulty in visiting the grave . "

7. I would not wish to dismiss this Petition without giving the McCarthys the opportunity to let me know (if they are still able to remember) what was said and by whom and in what circumstances to lead them to believe that their son's remains could readily be moved at some future date .
8. Accordingly , I will not finally adjudicate upon this Petition until I hear further from the Petitioners.



Chancellor of the Diocese

1/6/10