

**IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY**

**ST JAMES: BULKINGTON**

**ON THE PETITION OF SUSAN HARTLETT**

**RE: THE REMAINS OF SARAH JAYNE AND ROBERT HARTLETT**

**JUDGMENT**

- 1) Mrs. Susan Hartlett petitions for a faculty authorising the exhumation of the remains of Sarah Jayne Hartlett and Robert Hartlett from the churchyard of St James in Bulkington.
- 2) Robert Hartlett was the Petitioner's husband and Sarah was their daughter. Sarah died after only one day of life and was buried in the churchyard in February 1979. Mr. Hartlett died twenty-one years later suddenly at the age of fifty. His cremated remains were interred in the same grave as his daughter's body in April 2000.
- 3) Mrs. Hartlett moved from Bulkington seven years ago. She moved to Bacton in Norfolk which is the home of her daughter, her son-in-law, and her grandchildren. Mrs. Hartlett wishes the remains of Robert and Sarah to be interred in the churchyard of St Andrew's church in Bacton and intends that in due course she should be interred in the same grave.

**The Procedural History.**

- 4) I am satisfied that it is expedient for this petition to be determined on the basis of written representations. Mrs. Hartlett consented to that course and has provided submissions supplementing the points made in her petition. Rev Catherine Dobson is the rector of St. Andrew's. She has confirmed that there would be space there for the proposed interment and that she consents to this course. Rev Charles Higgins is the vicar of St James's and he has also consented.

**The Petitioner's Submissions.**

- 5) Mrs. Hartlett makes reference to her severe health problems. I need not recite the details of those in this judgment. It suffices to say that I accept that they are

genuine and life-altering. It is also clear that Mrs. Hartlett is facing them as she has faced earlier tragedies with courage. Those health difficulties mean that Mrs. Hartlett is no longer able to travel from the north Norfolk coast to Warwickshire (a round trip of some eight hours) something which she had previously done every four – six weeks. Mrs. Hartlett has not been able to visit the grave of her husband and daughter since July 2016.

- 6) Mrs. Hartlett points to her inability to visit the grave as one factor in support of the proposed exhumation. In that regard Mrs. Hartlett explains that she no longer has the comfort and support of visiting the grave but in addition says that it means that she can no longer care for the grave. Her concern that the grave will appear neglected is a factor adding to her distress at the current situation. Mrs. Hartlett wishes to be interred in the same grave as Robert and Sarah. If that grave is in Bacton it will be in a location where Mrs. Hartlett's daughter and grandchildren can visit the grave and can tend it. If the proposed exhumation is not permitted then Mrs. Hartlett will be interred in the grave in Bulkington but the distance from Bacton will markedly limit the opportunity for such visits or maintenance by her daughter.

### **The Applicable Principles.**

- 7) The approach which I am to take in considering this Petition was laid down by the Court of Arches in *Re Blagdon Cemetery* [2002] Fam 299.
- 8) I have a discretion but the starting point in exercising that discretion is the presumption of the permanence of Christian burial. That presumption flows from the understanding that burial (or the interment of cremated remains) is to be seen as the act of committing the mortal remains of the departed into the hands of God as represented by His Holy Church.
- 9) It must always be exceptional for exhumation to be allowed and the Consistory Court must determine whether there are special circumstances justifying the taking of that exceptional course in the particular case (the burden of establishing the existence of such circumstances being on the petitioner in the case in question).

10) In *Blagdon* the Court of Arches identified matters which can be capable of being exceptional circumstances for these purposes but also those which are not capable of being such. For present purposes I have to note that at [36(i)] the court made it clear that the fact that visits to a grave are prevented by “advancing years and deteriorating health and change of place of residence due to this” is not something which can be an exceptional circumstance justifying exhumation. In order to amount to exceptional circumstances medical problems would have to be related to the location of the grave in question.

### **Conclusion.**

11) Sarah’s body has been in the churchyard at Bulkington for forty years. Robert’s remains have been there for nineteen years. Deliberate decisions were made to bury them in that churchyard and, in the case of Robert, in the particular grave. It is apparent that Bulkington was the home of Robert Hartlett and of the Petitioner for many years. I note and accept Mrs. Hartlett’s submission that she and her husband had been making plans for Mr. Hartlett to take early retirement and for them then to move to Bacton to live near to their daughter. However, I am not told how advanced or definite those plans were and it is relevant to note that Mrs. Hartlett did not in fact move to Bacton until about seven years ago which was eleven or twelve years after Mr. Hartlett’s death. It will be possible for Mrs. Hartlett’s remains to be placed in the grave in Bulkington in due course. All of those are factors which are highly relevant by way of background here.

12) Mrs. Hartlett says that she feels that the grave of her husband and daughter must appear abandoned but there is no suggestion that it is overgrown or that the churchyard is not properly maintained. Indeed, it is apparent from recent judgments of the deputy chancellor in relation to memorials in this churchyard (see [2018] Ecc Cov 2 and [2019] Ecc Cov 1) that the Parochial Church Council takes seriously the obligation of ensuring that the churchyard is maintained in a fitting way. I accept that the absence of visits may very well mean that the grave does not appear as cherished as it would have looked if Mrs. Hartlett had been able to maintain her regular visits at four-six weekly intervals but I do not accept that it can be regarded as appearing abandoned. I must determine this

application on the basis that the grave is in a well-maintained churchyard which remains a fitting resting place for those interred there.

- 13) I have read and re-read Mrs. Hartlett's submissions. Anyone doing that is inevitably struck by the fortitude with which she has faced a series of misfortunes. Her submissions are restrained and dignified but forceful.
- 14) However, the circumstances here are of a kind which the Court of Arches has ruled are not without more capable of being exceptional such as to justify exhumation. By saying that I do not wish to minimise the matters which have affected Mrs. Hartlett but the situation here cannot be distinguished from that described by the court in the passage from *Blagdon* referred to above. In the light of that they are not to be seen as exceptional and cannot be grounds for exhumation.
- 15) It follows that the petition must be dismissed.

*STEPHEN EYRE*

HIS HONOUR JUDGE EYRE QC

CHANCELLOR

8<sup>th</sup> July 2019