

In the Consistory Court of the Diocese of Lincoln

In the matter of an application to exhume the cremated remains of Cyril Glover
from the churchyard of All Saints, Barrowby

Judgment

1. This is an application by Mrs Giusepphina Glover, aged 92, for a faculty to exhume the cremated remains of her late husband, Mr Cyril Glover from the churchyard of All Saints, Barrowby. Mr Glover passed away on 7 November 1990 and his cremated remains were interred in a single cremated remains plot on 14 February 1991 in an oak casket. The PCC have given their agreement and the local environmental health authority have indicated their agreement to this.
2. Mrs Glover submits to me that she and her husband lived in Barrowby and at the time of her husband's death his younger brothers were alive and lived locally. It was her intention in 1991 that when the time came she would have her ashes interred with her husband at Barrowby. Sadly all of her husband's siblings have now died (and there is no family from those siblings) and there are now no surviving close relatives in the UK of herself or her husband.
3. Mrs Glover's country of origin is Italy and she has relatives living there. In her home town her family have a family mausoleum which the family tend. She would now like her husband's ashes to be placed in this family grave and eventually she would like her ashes to be placed there too. Her fear is that if she was interred with her husband's ashes in Barrowby there would be no one to care for their graves, whereas she knows that her family in Italy would do so.
4. She does not say that she plans to return to Italy to live and I assume she has no plans to do so. Mrs Glover is now 92 (shortly to be 93). She finds it difficult to visit the grave in Barrowby.
5. There is space for both Mr Glover's ashes and her own, when the time comes, in the family grave at Bisceglie, Puglia, Italy.
6. She states that the exhumation of her husband's ashes to the family grave and knowing that her ashes would eventually be placed there too, would give her great peace of mind given that that there is no one in UK now to tend their graves in Barrowby.

7. The materials I have considered are:
- (i) statement from Mrs Glover dated 13 October 2015;
 - (ii) the application dated 24 June 2015 with a sheet answering question 9;
 - (iii) the authorisation for Mr Glover's ashes to be buried in the family grave in Bisceglie (with his wife's eventually) dated 21 April 2015;
 - (iv) a short email from Fr Mastrototaro dated 8 March 2015;
 - (v) a photo of the mausoleum;
 - (vi) an email from the funeral director dated 20 February 2015;
 - (vii) a family tree and a map of the churchyard; and
 - (viii) letter dated 9 June 2015 from the clerk of Barrowby Parish Council.

Principles

8. 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.
9. 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'.

“ 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”

10. The principle of permanence can only be departed from if there are special circumstances which justify an exception to the principle that Mrs Glover was laid to rest in 1991 and his remains should not now be disturbed.

11. 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. This application is not made on this basis.

(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 Petitioner's case. I bear in mind that around 24 years have passed since the interment of the ashes, but also accept that at the time it was not thought that all Mr Glover's family would predecease his wife leaving her the only family member left in UK.

(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. This is not relevant to this application.

(iii) 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 matter into account.

(iv) 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.

This is the basis of the application. It is clear that Mrs Glover's family in Italy care for the family mausoleum and in so doing express their family unity which is to be supported. Mrs Glover wishes both herself and her husband's remains to be looked after by her family.

Determination

12. I am satisfied that this is one of those exceptional cases where I can authorise the exhumation of the cremated remains so that they may be reinterred in the family grave in Italy. I accept that Mrs Glover is concerned about what will happen to her husband's plot, and her own, after she has passed away. I am sure that that Mr and Mrs Glover's graves would be properly cared for in those circumstances by the PCC ensuring that the churchyard was tended, but I recognise the distress she feels about no family member being around to care for their plots and visit the graves.
13. The exhumation would also make available another plot for someone else and therefore is an economical use of land.
14. This faculty is granted on condition that

- (i) the undertaker can recover the oak casket and the ashes sufficiently for the exhumation to be effective. I assume that Mr Clark would not have supported the application in his email 20 February 2015 if there were any concerns about that;
- (ii) any conditions required by the environmental health department are complied with; and
- (iii) the MoJ licence is obtained.

15. I wish Mrs Glover well, and waive my fee.

HH Judge Mark Bishop

Chancellor
29 November 2015.