

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

PELSALL: ST MICHAEL AND ALL ANGELS

RE: THE CREMATED REMAINS OF JOYCE VINCENT

ON THE PETITION OF STEPHEN VINCENT

JUDGMENT

- 1) The cremated remains of Joyce Vincent were interred in the churchyard of St. Michael and All Angels in Pelsall in 1991. Her widower, Ronald Vincent, died in 2017 and his remains were also interred in that churchyard but in a different part thereof. Stephen Vincent is one of the sons of Ronald and Joyce Vincent and he petitions with the support of his two brothers and sister seeking a faculty authorising the exhumation of the remains of Mrs. Vincent and their reinterment in the plot containing Mr. Vincent's remains.
- 2) At the time of Mrs. Vincent's interment the policy of the then incumbent and Parochial Church Council was that cremated remains were to be interred in plots marked by small memorial stones with those stones being positioned in a column two abreast with no spaces between the stones. The Petitioner says, and I accept, that at the time of his wife's interment Ronald Vincent was unhappy at this arrangement. He believed that the appearance created was that of a paved path and he did not feel it was a seemly way of marking the resting place of his wife's remains. However, if Mrs. Vincent's remains were to be interred in this churchyard there was no alternative to this location or to this form of memorial.
- 3) In the intervening period the approach of subsequent Vicars and of the Parochial Church Council has changed. I am not told when the approach changed and that does not matter for current purposes. The approach adopted now is for cremated remains to be interred in slightly larger plots marked by memorials in the form of headstones and with spaces between those memorials. I am not told the reason for this change of approach but it can readily be inferred. I anticipate that Mr. Ronald Vincent was not the only bereaved relative who thought the previous arrangement failed to provide a proper setting for the resting place of a departed

loved one. I will proceed on the basis that the new arrangement has been adopted because the Vicar and the Parochial Church Council take the view that the current arrangements are more likely to meet the pastoral needs of the bereaved than the former arrangements and that they are more appropriate in terms of seamliness and the appearance of the churchyard.

- 4) As I have already explained, following his death earlier this year Ronald Vincent's remains were interred in the churchyard of St. Michael and All Angels. They were interred in one of the new style plots and it is to this plot that the Petitioner wishes Joyce Vincent's remains to be moved.
- 5) Preb. Carl Ramsay, the current Vicar of Pelsall, and the Parochial Church Council support the Petition.
- 6) I have received assurance from the undertakers who acted in the interments that it will be practicable for the exhumation to be undertaken in a seemly manner. Although the casket in which Mrs. Vincent's remains were interred has disintegrated those remains are identifiable having been enclosed in a plastic bag.

The Approach to be taken.

- 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 theological 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 particular case). Whether there are special circumstances in this sense will depend on the facts of the case in question seen in the round. The assessment must be made in

the light of the presumption that Christian burial is permanent. It is clear from *Blagdon* that some matters are not capable without more of being special circumstances (such as a change of mind on the part of family members or a desire to have the remains in a more convenient location for visits to the graveside). There are other matters which are potentially capable of amounting to special circumstances (such as the creation of a family grave) but whether those matters justify exhumation will depend on the facts of the case being considered.

The Position in this Case.

- 10) I am satisfied that in this case there are special circumstances making this case exceptional such that the proposed exhumation and reinterment are appropriate notwithstanding the passage of time since Mrs. Vincent's remains were interred and notwithstanding the presumption that the original interment should be regarded as having been permanent. Those special circumstances arise from the combination of three elements.

- 11) Taken chronologically the first of those elements is the fact that there was unhappiness with the form and position of the memorial at the time of the original interment. This is not a case where family members have changed their minds as to the location of interment or as to the form a memorial should take. It is a case where there was a reluctant acceptance of the arrangements which were required by the approach governing the churchyard at the time of interment. Ronald Vincent wished his wife's remains to be interred in the churchyard of St. Michael and All Angels and in order to achieve that objective (an objective which the Church welcomes and encourages) he had to accept arrangements which he did not regard as satisfactory. That subjection of personal preferences to the collective approach laid down by those with responsibility for the churchyard is commendable and is not to be held against the family of Ronald and Joyce Vincent.

- 12) The next factor is that there has been a change of approach on the part of the incumbents and church councils of St Michael and All Angels. As explained at [3] above I will proceed on the footing that the change is because the previous arrangements are now felt not to have been appropriate. Even if the former arrangements are not regarded as having been inappropriate the incumbents and

church councils must have concluded that new arrangements are a better way of achieving the objective of meeting the needs of bereaved families in a manner appropriate to the appearance and purpose of the churchyard.

- 13) Finally, it is significant that the proposed exhumation is for the purpose of reintering Joyce Vincent's remains in a grave containing those of her husband. Moreover, this is in the churchyard which already contains her remains. Instead of the remains of Ronald and Joyce Vincent being in two separate graves at different points in the churchyard of St. Michael and All Angels a family grave will be created in that churchyard containing the remains of both husband and wife.
- 14) If any one of those elements had stood alone I think it unlikely that there would have been special circumstances justifying exhumation. However, they do not stand alone. In my judgment the combination of those elements has the effect that in this case there are special circumstances justifying exhumation and that the proposed exhumation and reinterment is a course which the Court should authorise.
- 15) Accordingly, I direct the issue of a faculty authorising exhumation and reinterment.
- 16) I note that Joyce Vincent's remains were contained in a plastic bag within a casket when they were originally interred. That is not consistent with the current Churchyard Regulations. The faculty will be subject to a condition that the reinterment is to be in a manner consistent with those Regulations. Accordingly, reinterment is preferably to be by way of the pouring of the remains directly into the ground. If Preb. Ramsay is satisfied that on pastoral grounds the use of a casket is appropriate then any casket must be of a material which is readily biodegradable and the remains when inside the casket must not be in a plastic bag or any other form of internal container.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
5th November 2017