

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

ARMITAGE: ST JOHN THE BAPTIST

ON THE PETITION OF PAUL AND GORDON MATTHEWSON

JUDGMENT

- 1) Alan Matthewson died in 1978 at the age of forty-eight leaving a widow, Susannah, and three sons. His cremated remains were interred in the churchyard of St John the Baptist, Armitage. Susannah Matthewson remarried William Allison in 1983 or thereabouts. Mrs. Allison, as she had become, died in April 2016 and her cremated remains were interred in the same plot as those of Alan Matthewson. These proceedings result from a petition lodged by Paul and Gordon Matthewson, the sons of Alan and Susannah Matthewson. The Petitioners seek a faculty for the removal from that plot of a memorial placed there by William Allison.

- 2) Judges frequently say that they are dealing with a sad case. This is truly a case where the differences which have arisen are most unfortunate. It is clear that all concerned had a deep love for Susannah Allison but their feelings towards each other are anything but loving or, indeed, respectful. Various allegations of abusive behaviour since Mrs. Allison's death and of poor behaviour while she was alive have been made. I make it clear at the outset that I make no findings in respect of those allegations it not being necessary for me to do so in order to determine this petition.

The Factual Background.

- 3) I have already said that Alan Matthewson died in 1978. The memorial on his grave was in the form of a headstone. It recorded the date of Mr. Matthewson's death and his age at death. It described him as the "*beloved husband of Susannah Cragg Matthewson*" and the "*dear father of Alan, Paul, & Gordon.*" Susannah Matthewson remarried about four or five years after the death of Alan

Matthewson. She died in April 2016 and so had been married to William Allison for thirty-two years at the time of her death.

- 4) Susannah Allison's cremated remains were interred in the plot already containing those of her first husband. The Petitioners caused the existing memorial to be removed and had added to it an inscription recording Mrs. Allison's age and date of death with the words "*in loving memory of Susannah Cragg, a dear wife, mom, & nan.*" I will refer to this memorial as the Headstone.
- 5) In the interval during which the Headstone had been removed in order for the additional inscription to be added William Allison approached the churchwarden of St John the Baptist and sought permission to place a memorial on the plot. The churchwarden in turn consulted Revd Roger Gilbert, who was acting as Interim Minister. Mr. Gilbert gave permission for Mr. Allison to place on the plot a memorial to Susannah Allison. That memorial took the form of a flat tablet bearing the words: "*treasured memories of Susannah Cragg Allison, wife of Bill*" and gave the date of death and Mrs. Allison's age at that time. It concluded with "*love you, God bless till we meet again.*" I will refer to this as the New Memorial.
- 6) The New Memorial does not conform to the Churchyard Regulations by virtue of being a flat memorial of polished stone. However, it is to be noted that this churchyard contains a number of non-conforming memorials.
- 7) Revd Roger Gilbert was covering the parish during an interregnum and I am very conscious of the pressures to which he must have been subject to in those circumstances. Mr. Gilbert has accepted that he acted in haste in approving the New Memorial. I am compelled to say that it is regrettable that Mr. Gilbert did not seek the advice of the Registry or the Archdeacon before acting in this way.
- 8) The New Memorial had been placed by Mr. Allison at the head of the plot. When the stone mason who was restoring the original memorial to its position found the New Memorial at that point he moved it to the foot of the grave. Mr. Allison has since then moved the New Memorial so that it is placed a little further down the grave from the Headstone.
- 9) The Petitioners seek a faculty for the removal of the New Memorial.

The Procedural History.

- 10) I concluded that it was expedient to determine this matter on the basis of written representations. The Petitioners consented to that course and confirmed that they wished their original submissions together with a subsequent letter to stand as their written representations.
- 11) Mr. Allison objects to the petition. He has written a letter of objection and I have taken account of the matters set out therein. However, Mr. Allison has declined to become a party to the proceedings.
- 12) Revd Roger Gilbert has stated that he does not wish to make any representations.
- 13) I have received and will take account of a letter from four of the grandchildren of Susannah Allison.

The Contentions.

- 14) The Petitioners say that the New Memorial should be removed. They point out that it does not conform to the Churchyard Regulations. However, this is not their main point. The essence of their contentions is the view that there should only be a single memorial to a particular person on a grave. In addition they believe that the wording and the positioning of the New Memorial is disrespectful to the memory of their father. They are prepared to contemplate a plaque being placed at the foot of the grave but would seek to approve the wording.
- 15) Mr. Allison says that he had sought and obtained permission for the New Memorial. At the time he arranged for the New Memorial to be put in position he was unaware of the intention to add reference to Mrs. Allison to the existing headstone. Mr. Allison says that the stance of the Petitioners meant that he was unable to discuss these matters with them. The Petitioners dispute this but it is clear that relations between Mr. Allison and the Petitioners were poor and that there had been longstanding difficulties. Mr. Allison makes the point that the current dispute is disturbing his grieving for his wife of thirty-two years. He says that Mrs. Allison would have been saddened by her sons' actions. The Petitioners also acknowledge that the situation is unhappy and that it is helping neither them nor Mr. Allison to grieve. I have no doubt that this situation would have saddened

Mrs. Allison and I also have no doubt that this is causing distress to all those involved – it being abundantly clear that despite their feelings towards each other all concerned loved Susannah deeply.

- 16) Four of Susannah Allison's grandsons have made a written submission. Three of them are sons of Gordon Matthewson and one is a son of Paul Matthewson. The letter is commendable for its conciliatory tone. The writers explain that the situation has caused upset amongst the family members. They explain that they understand and appreciate their fathers' action in petitioning for removal of the New Memorial. However, they say they "*also understand the importance this stone has to our grandfather to be able to pay his respects to his wife of over 30 years.*" They explain that they would be content for the New Memorial to remain on the plot but ask that it be moved so that it is not situated directly over the cremated remains of their grandparents.

The Relevant Principles.

- 17) The New Memorial does not conform to the Churchyard Regulations. That, however, is not the real difficulty in this case given the presence of other non-conforming memorials in this churchyard.
- 18) I have found little by way of direct guidance in the decisions of other chancellors. Cases where there is disagreement as to the wording to appear on a proposed single memorial are sadly not uncommon. The issue here is the less common one of what is to be done when two competing memorials are already in situ.
- 19) I must approach the dispute in the light of the purpose of a churchyard as being a suitable and seemly resting place for the remains of those interred there. The Court must seek to ensure that the memorials which are installed in a churchyard are compatible with that purpose.
- 20) In *Re St. Mark's, Haydock (No 2)* [1981] 1 WLR 1167 Hamilton Ch sitting in the Liverpool Consistory Court said (at 1170 B – D) that a controversial headstone would serve no purpose and that a memorial which included one friend or relative "*to the pointed exclusion of another*" would not be appropriate.

- 21) In *Droitwich, St. Augustine* [2016] Ecc Wor 2 Mynors Ch addressed the issues of who has the right to erect a memorial and of how disputes between competing relatives should be resolved. The learned Chancellor was there faced with the problem of competition as to the appropriate wording for a single memorial. However, he helpfully viewed the matter in more general terms. After an extensive analysis of the authorities Mynors Ch was driven, at [70], to the conclusion that “*there seems to be no definitive legal principle governing the right to choose a memorial*”.
- 22) I have, therefore, to make an assessment of the appropriate approach. In doing so I have considered the implications of the principle that a churchyard should be a seemly resting place for the remains of those interred therein.
- 23) In my judgement there are a number of key requirements governing the acceptability and appropriateness of memorials of relevance to the current case.
- a) There should only be a single memorial at the point of interment to the person whose remains are interred. It will only be in the most exceptional of cases that it could be said to be appropriate for there to be more than one memorial to the same person at the same point in the churchyard.
 - b) The memorial must be consistent with the need for the churchyard to be a seemly resting place for the person commemorated and for others. The requirement, identified by Hamilton Ch in *Re St. Mark's, Haydock (No 2)*, that the memorial should not be a source of dispute, offence, or controversy derives from that need for seemliness.
 - c) The view that it is inappropriate for there to be the inclusion of reference to one bereaved person to the exclusion of another also derives from the need for seemliness. The occasion of choosing the wording for a memorial should not be used as an opportunity to settle scores or to make contentious assertions. A memorial can perfectly properly be silent as to the relationships of the deceased person. Thus a memorial simply recording a person's name and dates of birth and death can be appropriate without more or with the addition simply of a phrase such as “in loving memory of”. It is also appropriate for a memorial to record the significant relationships of the

departed person. However, what there cannot be is a memorial which recognises a relationship with some persons while deliberately remaining silent about other important relationships which are equally worthy of mention.

The Approach to be taken here.

- 24) It is not appropriate that there should be two separate memorials to Susannah Allison on the same plot. The current position with two memorials in different terms and describing Susannah Allison by different names is unseemly. It has the effect, at best, of generating confusion and uncertainty. It runs the risk of highlighting controversy and drawing attention to discord and that would be an even worse outcome. The commemoration of the life of Susannah Allison should be a matter of celebrating her life and the love which she engendered. Respect for her memory and the need for seamliness mean that anything which causes controversy or harks back to past discord is to be avoided.
- 25) I have concluded that the current unsatisfactory state of affairs would not be remedied either by moving the New Memorial to a different position on the same plot or by the installation of a plaque at the foot of the grave. Such arrangements would still run the risk of causing confusion and would draw attention to the family disharmony.
- 26) The appropriate course is for Susannah Allison to be commemorated on the Headstone. The New Memorial conducive as it is to confusion and indicative of disharmony will have to be removed. However, the commemoration of the life of Susannah Allison must reflect her marriage of over thirty years to William Allison as well as her marriage to Alan Matthewson. Any commemoration of her life which mentioned one without the other would be incomplete. The current wording of the Headstone is inappropriate because it amounts to a pointed exclusion of the important relationship with William Allison. The wording of the New Memorial standing by itself is also inappropriate because it reflects neither Susannah Allison's first loving marriage nor her relationship with her children and grandchildren.
- 27) The photographs with which I have been provided show that there remains space on the Headstone for a short additional inscription.

28) In those circumstances I direct that a faculty will issue authorising and directing the removal of the New Memorial and its return to William Allison. I cannot compel the Petitioners to add words to the Headstone but I can make the addition of a suitable inscription a precondition of the Headstone remaining in position and of the removal of the New Memorial. Accordingly, the faculty will provide that if the Petitioners do not on or before 4.00pm on 3rd March 2017 confirm to the Registrar whether they are prepared to cause a suitable reference to their mother's marriage to William Allison to be included on the Headstone the papers are to be referred back to me. If the Petitioners are so prepared the confirmation should set out the proposed form of words and specify a date by when the additional inscription will be added. The wording of the additional inscription should be agreed with Mr. Allison if possible. I envisage a wording along the lines of "a widow for N years and for N years the beloved wife of Bill Allison" although it may very well be that the Petitioners and Mr. Allison will be able to agree more suitable wording. If wording cannot be agreed then I give permission for the Petitioners and Mr. Allison to apply for directions.

29) The faculty authorising the removal of the New Memorial will not take effect unless and until the Petitioners have confirmed that they are prepared to cause such wording to be added. To the extent that it is necessary to do so the faculty will authorise the retention in position of the New Memorial until the confirmation has been received.

30) If the confirmation that the Petitioners are prepared to take that course is not received then the papers are to be referred back to me. In those circumstances I will be minded to invite the Archdeacon to petition for a faculty for the removal of both the Headstone and the New Memorial and their replacement by a single memorial bearing wording directed by the Court.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
4th January 2017