

12th June 2018

Before:

**THE REVEREND AND WORSHIPFUL ALEXANDER MCGREGOR,
CHANCELLOR**

In the matter of :

**The Petition of Mark Alexander,
Re Holy Trinity, Drayton Parslow**

Between:

(1) Mark Alexander

- and -

(1) The Reverend Simon Faulks

(2) John Preston

Petitioner

Parties Opponent

Determined on consideration of written representations

JUDGMENT

The Chancellor:

1. Mr Mark Alexander has submitted a petition seeking authority to amend the inscription on the memorial to his late father, Samuel Alexander. Samuel Alexander died in September 2009 and was buried in the churchyard of Drayton Parslow in April 2010. The existing memorial was set up in the churchyard in 2014. The inscription currently sets out the name and dates of Samuel Alexander and describes him as 'Father, Teacher, Linguist'. There is an empty line before the words 'Father, Teacher, Linguist' in which Mr Alexander wishes to insert the single word, 'Beloved'.
2. The Petition is formally opposed by the rector, the Reverend Simon Faulks, and one of the churchwardens, Mr John Preston. A letter of objection was received from Mr Alistair Wemyss and Mrs Carol Wemyss in response to the public notice but Mr and Mrs Wemyss have chosen not to become parties opponent.
3. The parties have all consented to the proceedings being dealt with on consideration of written representations. The written representations that I have taken into account are set out in the Schedule to the order of the court dated 6 February 2018, subject to subsequent clarification contained in a letter from the Registry to the Petitioner dated 8 March 2018.
4. In 2010 the Petitioner, Mark Alexander, was convicted of the murder of his father, Samuel Alexander, and received a sentence of life imprisonment, the judge determining that the minimum period he would serve before he could be considered for release on parole would be 16 years. The Petitioner is currently serving that sentence.
5. In August 2014, as the benefice which includes the parish of Drayton Parslow was vacant, the then Archdeacon of Buckingham granted authority under the diocesan churchyard regulations for the introduction of the memorial to Samuel Alexander with the inscription in its current form. She did so following consultation with the parochial church council. The original proposal – submitted on behalf of Mark Alexander – had been for an inscription that included the word 'Beloved' before 'Father, Teacher and Linguist'. It appears from the contemporary correspondence that the parochial church council were prepared to accept the memorial with 'Beloved' omitted from the inscription as a compromise, the PCC having previously expressed more wide-ranging objections to the proposed memorial. The Archdeacon granted authority for the memorial on the basis that the word 'Beloved' was not to be included in the inscription.
6. There is some dispute as to the true grounds on which the PCC was opposed to Mark Alexander's original proposals for the memorial. A letter from the then incumbent, the Reverend Lawrence Meering, dated 24 May 2014 refers to the PCC being unhappy with 'the ornate style of the headstone proposed' and refers to the PCC 'taking into account some of the history that was revealed of [Samuel Alexander's] nature during the trial of his son'. I note that some of the prosecution witness statements from the trial, provided by the Petitioner, indicate a difficult relationship between Samuel Alexander and at least some of his neighbours.
7. Against that, the Particulars of Objection submitted by the Reverend Simon Faulks, the current rector, state that the PCC's previous objection to the proposed memorial

had nothing to do with the relationship between Samuel Alexander and his neighbours. He says, 'The objection was raised to the fact that the wording proclaimed "Beloved Father".'

8. The contemporary minutes of the PCC simply record decisions taken without giving reasons and therefore do not cast any light on this dispute. For reasons which will become clear, it is not necessary for the Court to resolve it.
9. As there has been a previous decision of the Archdeacon, following representations having been made to her by the PCC in 2014, it is necessary to consider the approach to be taken by the Court to this petition.
10. The diocesan churchyard regulations set out the scope of the authority which is delegated to incumbents (and in certain cases the area dean or archdeacon) to authorise the introduction of memorials in a churchyard. It is always open to a person who wishes to introduce a memorial to submit a petition to the consistory court. That includes cases where—
 - (a) a memorial cannot be authorised under the regulations,
 - (b) where an incumbent, area dean or archdeacon declines to authorise a memorial which can be authorised by them, or
 - (c) where an incumbent etc. is prepared only to authorise a memorial in a form different from that which the applicant wishes to introduce.
11. Where a petition is submitted, the consistory court considers the petition on its merits, taking into account the case advanced by the petitioner and any objections received from interested persons (who may or may not choose to become parties opponent). In case (a) there will have been no previous decision. In cases (b) and (c) there will have been a previous decision but the petition is not an appeal from the decision of the incumbent (or other person who exercises an equivalent role under the churchyard regulations); nor is it a review of the incumbent's decision or of any views underlying that decision that may have been expressed by the PCC. The matter is considered afresh by the court. The consistory court's jurisdiction in proceedings for obtaining a faculty is an original jurisdiction; it is not an appellate or supervisory jurisdiction in respect of the decisions taken by others. (The consistory courts formerly had jurisdiction to hear appeals from archdeacons' courts but that appellate jurisdiction ceased as a consequence of the abolition of archdeacons' courts by section 82 of the Ecclesiastical Jurisdiction Measure 1963.)
12. As the court is considering the matter afresh it is unnecessary to make findings as to the true reason the PCC was opposed to the memorial as originally proposed in 2014. It is also unnecessary for the court to consider whether the decision taken by the Archdeacon in 2014, or the decisions that informed it that were taken by the PCC, were rationally and fairly reached. The court's role is to consider the entire matter itself and come to its own decision.
13. As a matter of law, nobody has a right to introduce a memorial in a churchyard. (See the judgment of this court in *Re St Mary the Virgin, Burghfield* [2012] PTSR 593.) Provided a proposed memorial does not contain anything that is contrary to the doctrine of the Church of England, the court has a discretion whether to authorise its introduction. The court's discretion is to be exercised judicially; that is by taking

a principled approach that takes into account all relevant matters and disregards any irrelevant matters. As is generally the case with petitions for faculties, the onus is on the petitioner to show that the faculty should be granted.

14. The same principles apply to a petition for authority to alter an existing memorial, including – as in this case – to amend an inscription.
15. In the explanatory letter that accompanied the Churchyard Regulations 2016 (which currently apply in the Diocese of Oxford) I included the following explanatory notes:

Churchyards are special places. They are places which exist for both the living and dead. From the early days of Christianity, Christians have taken great care to give the faithful departed decent and holy burial in places set apart for that special purpose. Our churchyards enable us to continue the Church's traditional care and respect for the dead. As a result, churchyards are places of quiet and contemplation but they can also evoke strong emotions.

The special nature of churchyards is marked by the fact that they are consecrated by the Bishop. That means they are set apart for the burial of the dead in accordance with the rites and ceremonies of the Church of England. The act of consecration makes the churchyard a place of Christian burial, a place which is under the care and protection of the Church, and gives it a special status in law.

Churchyards are provided by the Church of England as part of its mission to proclaim the Christian faith to the people of England and churchyards are distinctively Christian places. They belong to the church but are for the local community as a whole. They are not the exclusive preserve of members of the Church of England: anyone resident in a parish – irrespective of religious affiliation – is entitled to be buried in the parish churchyard (provided there is still room and the churchyard has not been closed to new burials).

Churchyards, then, are shared spaces. Those who are charged with their protection must have regard to the needs of all those whose relations and friends are laid to rest there, to the local church congregation who have the responsibility for maintaining the churchyard, of all members of the local community and of the Church and of society at large. To ensure that all of these various needs are respected, it is necessary to provide a framework of rules for the way in which the departed are commemorated in churchyards. It cannot be left to individuals simply to decide what they would like and then to impose on it the churchyard and on everyone else. The framework of rules has to achieve a balance between the need for individuals and families to mourn and to commemorate those they love in a way that is meaningful and helpful to them, and the needs of the community as a whole, including the needs of others whose relations and friends are also buried in the churchyard. The framework of rules also has to uphold the nature of the churchyard as a distinctively Christian place.

16. I consider that these principles should also inform the exercise of the court's discretion in considering a petition for the introduction of a memorial or – as in the present case – for the amendment of an inscription on an existing memorial.
17. I note that in *Re Christ Church, Harwood* [2002] 1 WLR 2055 at 2056 Holden Ch, in considering a petition for the introduction of a memorial in the churchyard, said,

‘When deciding whether to allow the petition before me I have had to be sure that what is allowed is not an affront or offence to others.’ I would refine that principle somewhat. Whether something is an offence to others should not be treated as a purely subjective question. It must also involve objective considerations. I would state the proposition as being that the court should not allow a memorial that could reasonably amount to an affront or offence to others. It is not enough for someone simply to say that a particular memorial would offend him; the court has to decide whether it would be reasonable for a person to be offended. To hold otherwise would improperly fetter the court’s exercise of its discretion and in effect confer a veto on a person who did not want a particular memorial to be introduced in a churchyard.

18. I would also emphasise what I said in the explanatory notes to the churchyard regulations about the court needing to have regard to the needs of those whose relations and friends are buried in the churchyard and their need to mourn and commemorate those they love in a meaningful way that is helpful to them. These considerations have to be balanced against any contrary interests concerned.
19. Turning to the present case, the onus is on the Petitioner to show that his needs and wishes in relation to the commemoration of his father – and those of his family who support his petition – outweigh any relevant contrary matters.
20. It is not possible for the court to know whether the Petitioner loved his father or whether he loves him now. It is, as the Petitioner says, no doubt possible for someone to love the person he has killed. Whether one person loves another is not readily susceptible of proof. I do however note that there is evidence before the court that the Petitioner cared for and supported his father in various ways. I do not exclude the possibility that he loved him or that he loves him now. I have no doubt that the Petitioner wishes the word ‘Beloved’ to be included on the memorial. The Petitioner’s wishes (and to the extent that those wishes express his needs, also his needs) need to be taken into account.
21. I note that he has the support of his mother and of his late father’s sisters for his petition. Mr Alexander argues that the term ‘father’ on the memorial is indicative not just of Samuel Alexander’s paternal relationship to him but of his role in relation to the family as a whole and that their wishes should be taken into consideration. I do take them into account.
22. I note, however, that the letter from the Petitioner’s mother – in which she describes the relationship between the Petitioner and his father in positive terms – involves her concluding that the Petitioner cannot therefore have killed his father. As the Petitioner has been convicted of doing just that, and that this court takes judicial notice of the verdict of the Crown Court, those aspects of the Petitioner’s case that rely on the support of his mother are significantly weakened.
23. I also note the letter of support that has been provided by the prison chaplain of the prison where the Petitioner is serving his sentence. He says Mr Alexander ‘loved his father and indeed continues to love him. Thus the phrase ‘beloved father’ would seem to me to be entirely apposite.’ As the chaplain’s letter only takes account of what might be apposite so far as the Petitioner’s wishes are concerned, while it is some assistance to the court, that assistance is limited.

24. I also note that in addition to asserting that he loves his father and wishes that he should be commemorated accordingly, the Petitioner also points out that the insertion of the word 'Beloved' would also be consistent with his father being 'beloved of God'. That is no doubt true; but those are not the words the petition seeks authority to add to the memorial. What is proposed would have the effect of inserting the word 'Beloved' immediately before 'Father'. I accept, as the Petitioner argues, that if 'Beloved' were inserted in the place proposed it would precede 'Father, Teacher, Linguist' and would grammatically qualify all three but that does not alter the fact that it would qualify 'Father' or that, if inserted, would be inserted at the Petitioner's behest, thereby indicating that Samuel Alexander was beloved of the Petitioner.
25. Mr and Mrs Wemyss (who sent a letter of objection but did not become parties opponent) object on two grounds. The first is that the matter has already been considered by the PCC. The second is that the Petitioner was convicted of the murder of Samuel Alexander.
26. As to the first of those two grounds, the PCC is not the authority who decides whether to permit memorials in churchyards. But in any event, as I have explained above, these proceedings are not a review of any decisions previously taken but a consideration afresh of the merits of what is proposed.
27. The second point, although it does not go into any detail, is plainly of some significance.
28. The present rector, Mr Faulks, one the Parties Opponent, has concentrated on reviewing the decisions previously taken with regard to the memorial. However, he does say what he himself considers the position to be. He considers that those previously involved in taking decisions about the memorial took the decisions they did 'out of pastoral sensitivity to those closest to the case but also to the whole community'. He considers that they were right and that the word 'Beloved' should not appear before 'Father'.
29. So far as 'those closest to the case' are concerned, I assume Mr Faulks has in mind neighbours and other parishioners who became involved as witnesses in the trial of Mark Alexander or became involved in other similar ways. One can readily see the strength of that point. There is also force in what Mr Faulks says about the effect that allowing the amendment to the inscription would have in re-opening past wounds in the community.
30. The other Party Opponent, Mr John Preston, objects on the basis that the addition of 'Beloved' would not be appropriate given the outcome of the trial of Mr Alexander. As with the second of the two points raised by Mr and Mrs Wemyss, there is force in this objection.
31. I have read the sentencing remarks of HHJ Reddihough in the Crown Court at Reading when passing sentence on the Petitioner on 10th September 2010. I consider them to be of importance in my consideration of the Petition because they are based on a careful consideration of the Petitioner's relationship with his father and the circumstances relating to his murder of his father.

32. The Judge referred to the steps the Petitioner had taken to conceal his father's body, after he had left it to decompose for a time. The Petitioner 'took very considerable steps to bury the body in three layers of mortar and a final layer of commercial cement in the back garden of the home which the deceased and his father [sic] had shared. Thereafter he took steps to place a great deal of soil over the concrete grave with the intent that it should not be discovered. Going along with that was clearly some attempt by the defendant to burn parts of the body, no doubt either to seek to destroy it or parts of it which may show evidence of particular injuries.'
33. The Judge went on to refer to 'the pretence which this defendant sought to put up over a considerable period of time to neighbours and others and ultimately to the police, trying to make out that his father was still alive ...'.
34. I note that the Judge referred to the Petitioner's relationship with his father, that this to some extent involved his being in fear of this father, but that he gave him 'great care and devotion over many months' following a serious operation. That to some extent supports the Petitioner's case that he loved his father but not in an entirely straightforward way.
35. The Petitioner has asked me to note that the Judge gave him the 'benefit of the doubt' as to intent. That is clearly true; but the benefit of the doubt was as to whether his intent was to kill or only to cause grievous bodily harm. The Petitioner's intent being to cause grievous bodily harm rather than to kill, was a mitigating factor when it came to sentencing him; but the offence was murder nevertheless.
36. The Judge referred to the Petitioner being convicted of his father's murder 'on very clear evidence'. He referred to the Petitioner having brought about a terrible tragedy. He said, 'Only you know what happened in the last minutes of your father's life and exactly what you did to him to cause his death. ... It is a very great shame that you have not been able to bring yourself to admit what you did and to say why you did it. As I have already mentioned, after killing your father, you acted in a despicable, callous and sometimes cunning manner. You burnt various areas of his body, allowed it to decompose before burying it in mortar and concrete to which I have referred in the hope that his body would never be discovered and your crime would not be detected. ... you told lie after glib lie to neighbours and others and ultimately to the police to seek to cover up what you had done.'
37. In balancing the factors in favour of the Petitioner's case with those against I have come to the following conclusions.
38. The Petitioner has a strong desire that the inscription on the memorial to his father be amended to include the word 'Beloved' before 'Father, Teacher, Linguist'. He is supported in that desire by his mother and his father's two sisters. I am unable to form a view as to the motivation for the Petitioner's desire for the inscription to be amended. It might be an entirely genuine expression of his feeling; alternatively, it might be a further manifestation of the failure to admit what he has done that was referred to by HHJ Reddihough.
39. The Petitioner's wish to amend the inscription is certainly at odds with the way in which he treated his father's body after he had killed him. The Petitioner treated his father's body in a sacrilegious manner and sought to hide it, thereby preventing

decent burial. That of itself is enough, in my view, to bring the balance down against the Petitioner. The way the Petitioner treated his father's body is inconsistent with an amendment of the inscription so that it would imply that the Petitioner loved his father. That is so irrespective of what the Petitioner's true inner feelings are, as a memorial in a churchyard is a public, not a private, commemoration of the deceased. It would, objectively considered, be an affront and an offence to the parishioners at large for a memorial in the churchyard – a memorial marking the place where the his body now lies – to state that the late Samuel Alexander was a 'Beloved' father when it is known that his son not only murdered him but subsequently treated his body in the ways described in the sentencing remarks referred to above. It would be entirely reasonable for the parishioners to feel affronted and offended were the inscription to be amended in the way proposed.

40. The affront and offence to the parishioners would be exacerbated by the fact that the Petitioner had, as noted by HHJ Reddihough, put up a pretence to neighbours over a considerable time that his father was still alive, telling them 'lie after glib lie'. I accept what Mr Faulks says about the impact that allowing the Petition would have on the local community, re-opening wounds. It is clear from the evidence that the murder of Samuel Alexander was a traumatic event in the community. The sentencing remarks show that neighbours became the victims of the Petitioner's deception. Neighbours were called to give evidence at the trial. It would be wrong to permit something in the churchyard of the parish that would have the effect of re-opening issues that people would reasonably have considered had been concluded with the proceedings in the Crown Court.
41. Finally, I take the view that if this court were to permit the amendment of the inscription sought by the Petitioner, that could be seen as an expression by this court of a disagreement with the verdict returned and sentence passed in the Crown Court. I note what the Petitioner says about it being possible for someone to love the person he has killed; but the position here is that the Petitioner continues to deny killing his father. The amendment to the inscription he seeks would be likely to appear to the public at large as an expression of that denial. That is not something this court should facilitate.
42. The matters against the Petitioner, both individually and cumulatively, clearly outweigh the wishes of the Petitioner and of his family. The petition is accordingly dismissed.