

In the matter of Chalcraft Lane Cemetery, Bognor Regis

Judgment

1. By a petition dated 25 September 2014, Mrs Beryl Kingston seeks a faculty for the exhumation of the cremated remains of her late husband Roy Darren Kingston, from Chalcraft Lane Cemetery in Bognor Regis, and for their reinterment in the churchyard of St Mary's Church, Felpham Road, Bognor Regis. Mrs Kingston has indicated in writing that she is agreeable to this matter being determined on written representations and that there is no further material she wishes to put before the court.
2. Mr Kingston died in 2004 at the age of 80. His death came as a considerable shock as he was diagnosed with Leukaemia barely four weeks previously. The funeral director apparently gave Mr Kingston's relatives a choice for the place of interment for his ashes: Chichester Crematorium or Chalcraft Lane Cemetery. They chose the latter as they lived in Bognor.
3. Mr and Mrs Kingston had a son who died in January 2014 and whose ashes were interred in St Mary's churchyard, Bognor: an option that they had understood was unavailable back in 2004. Mrs Kingston's wish is that her late husband's ashes be exhumed and reinterred near to those of her son and that, in due course, her ashes can also be laid to rest in St Mary's churchyard. Mrs Kingston indicates that it is a cause of considerable distress that she has lost her son at a relatively young age and that the remains of her husband and son now lie in different burial grounds.
4. The petition has the support of Mrs Kingston's daughters, Mary Ballard and Caroline Lee. The rector of the parish of St Mary the Virgin, Felpham is agreeable to the remains of Mr Kingston being interred in St Mary's churchyard in the event that a faculty is granted for their exhumation. Arun District Council, which operates Chalcraft Lane Cemetery, has no objection to the proposed exhumation.
5. Any disturbance of human remains in a consecrated burial ground requires the authority of a faculty: *The Queen v Dr Tristram* [1898] 2 QB 371. The principles which govern the grant or refusal of any such faculty were revisited in the decision of the Court of Arches in *Re Blagdon Cemetery* [2002] Fam 299, paragraph 20 of which reads:

'permission is not, and has never been, given on demand by the consistory court. The disturbance of remains which have been placed at rest in consecrated land has only been allowed as an exception to the general presumption of permanence arising from the initial act of interment.'
6. Reference is made by the Court of Arches in its judgment to a paper entitled 'Theology of Burial' of September 2001 which was prepared by the Rt Revd Christopher Hill, then Bishop of Stafford, extracts from which are quoted in the judgment including the following at paragraph 23:

‘The permanent burial of the physical body/the burial of 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, the heavenly Jerusalem.’

7. The Court of Arches in *Blagdon* stated at paragraph 33: ‘We have concluded that there is much to be said for reverting to the straightforward principle that a faculty for exhumation will only be exceptionally granted’. This general test has been variously articulated as ‘good reason’ and ‘special and exceptional grounds’. See, by way of example, the decision of my predecessor, Edwards QC Ch, relating to the churchyard for the proposed reinterment, *Re St Mary the Virgin, Lyminster* (1990) 9 CCCC 1, as approved in *Blagdon* at paragraph 34. The Court of Arches in *Blagdon* continued at paragraph 35:

‘We consider that it should always be made clear that it is for the petitioner to satisfy the consistory court that there are special circumstances in his/her case which justify the making of an exception from the norm that Christian burial [...] is final.’

8. Having considered with considerable care all the material placed before the Court by Mrs Kingston, I can find nothing pointing to a special or exceptional circumstance. Her wish for the remains of her husband and her son to be close together in death is understandable and I am not unsympathetic to the distress which the current situation is causing her. Equally, I am mindful that she would wish her remains to be interred in the same churchyard. But this is not the case of the establishment of a family grave which found some favour with the Court of Arches in *Blagdon* and certain subsequent decisions of various consistory courts. It is, in my view, a portability case which runs contrary to Christian doctrine.
9. Whilst Mrs Kingston’s reasons may be entirely understandable, they are not exceptional nor do the facts she relies on amount to special circumstances. I take fully into account that she is elderly, and not well versed in canon law or court procedure. She is fortunate to have the assistance of her daughters. I have not sought to determine this matter on a legalistic or technical basis, but considering the reality of the situation and what else Mrs Kingston might have said had she had the benefit of legal advice. However, even taking the most sympathetic and favourable view of the matter, this is not an appropriate case for exhumation and the petition must therefore be dismissed.