

IN THE CONSISTORY COURT OF THE DIOCESE OF NEWCASTLE

In the Matter of an Application to exhume and re-inter the remains of the late Sylvia Lilian STEEL within the Consecrated section of Edgewell Cemetery and in the Matter of a Petition by Helen SCREEN

JUDGMENT

1. This is a petition dated 15 August 2023 brought by Mrs Helen Screen, on behalf of her mother, Mrs Jennifer Preston, to exhume and move the interred remains of the late Sylvia Lilian Steel from a plot (223) within the consecrated section of Edgewell Cemetery, Prudhoe, and re-inter them nearby in plot 224, immediately next to plot 223, within the consecrated section.
2. I have been supplied with the written consent of Mrs Jennifer Preston, cousin of Sylvia Steel, her late sister June Steel and their nearest relative. Mrs Preston is 85 years old and asked her daughter to present this petition on her behalf.
3. I have the benefit of a detailed statement from Mrs Screen explaining the circumstances and reasons for this petition as well as a letter from David Mordue, the funeral director employed by Co-op Funeralcare, responsible for the burial of Sylvia Steel's remains. I have also read correspondence between Mrs Screen and the Deputy Clerk of Prudhoe Town Council in the absence of the Town Clerk who is the proper officer.

The facts

4. Ms Sylvia Steel died on 5 July 2023. By all accounts, as a former managing director's personal assistant, she was highly organised and left detailed instructions for her funeral and burial thereafter. In April 2003 she purchased a single space grave, plot 223, from Prudhoe Town Council for her sister, June Steel who died on 7 April 2003. The plot was carefully chosen by reason of its proximity to a made up path which ensured that wheelchair access to it would be possible.
5. Being desirous of being buried next to her sister, and holding double depth graves in low regard, she purchased plot 224 from the same council in July 2004. Unfortunately, having left a file containing her instructions, she erroneously put the title documents relating to plot 223 in the file, such that when the file was accessed, it was assumed by all that she was to be buried in plot 223. She was interred there on 8 August 2023.

6. Mrs Screen points to numerous factors that she contends support the correctness of the belief that her relative was buried in the wrong plot:
- (i) On the evening after the funeral, she was contacted by the Vicar of St Mary Magdelene, Prudhoe, who had officiated, to be told that, unhappily, Sylvia Steel had been buried in the wrong plot;
 - (ii) The vicar had been told by the funeral director that the grave was extremely shallow;
 - (iii) Mrs Screen had observed at the time of the interment that June Steel's headstone had been removed. She assumed, without making enquiry, that this was in some way related to the fact of the proximity to Sylvia Steel's grave;
 - (iv) Mrs Screen has enclosed a photograph of June Steel's headstone which confirms the point she makes that the headstone has been inscribed in such a way that it is clear that no additional name was intended to be added;
 - (v) Sylvia Screen had, in fact, left instructions for the erection of a memorial that matched that of her late sister, June;
 - (vi) On being given the distressing information she was on 8 August, she contacted Prudhoe Town Council, responsible for Edgewell Cemetery, the following day. It was able to confirm, from its records, that Sylvia Screen had indeed purchased plot 223 on 14 April 2003 but this was the plot purchased for her sister June Screen;
 - (vii) The records also showed that plot 224 had been "purchased" but, owing to an administrative error, no particulars of the purchase had been recorded. In fact, after further enquiry, the Council was able to confirm that plot 224 had indeed also been purchased by Sylvia Screen and a search of her papers subsequently uncovered a photocopy of the deed of ownership, albeit the original has not yet been found.

The law

7. The law is well established and definitively set out in the judgment of the Court of Arches *In re Blagdon Cemetery* [2002] Fam 299. The presumption of permanence is explained, arising, as it does, from the Christian theology of burial which emphasises, by reference to the Bishop of Stafford's *Theology of Burial*, that the permanent burial of the physical body is to be seen as a symbol of the entrusting the person to God for resurrection, a concept that does not sit easily with the concept of "portable remains". Hence the reluctance of the Consistory Court to grant faculties for exhumation is well supported by Christian theology.
8. Nevertheless, recognising that it was essentially a matter of discretion, the Court indicated the necessity of the petitioner satisfying the Consistory Court that there are special circumstances justifying the making of an exception from the norm that Christian burial is final. In so stating the Court went on to identify various factors which may indeed support such a petition.

9. In the circumstances of this case it is not necessary to look beyond the Court's ruling that a simple error in administration, such as burial in the wrong grave, the exact circumstances alleged here, can form a ground upon which a faculty for exhumation can be granted. The Court advised that in such circumstances it may be for those responsible for the cemetery to apply for exhumation, as has occurred here. It went to say:

"Faculties can in these circumstances readily be granted, because they amount to correction of an error in administration rather than being an exception to the presumption of permanence, which is predicated upon disposal of remain in the intended not an unintended plot or grave."

10. Whilst any lapse of time is always a relevant factor it is not determinative.

Decision

11. Piecing the facts and circumstances together, they point clearly to the remains of Sylvia Screen being buried in the wrong grave owing to the unfortunate fact that, despite her high degree of organisation (Mrs Steel has provided the very detailed instructions for her funeral service), she misfiled in the instructions for her own funeral the deed for the first plot she purchased, namely that acquired on the death of her sister. It is particularly unfortunate that the funeral director did not point out to the vicar, or the family, the difficulty experienced when June Screen's grave was opened for Sylvia Screen's interment: that would likely have been a sufficient warning that there was a problem, particularly with a headstone that had been carved in such a way that there was no apparent intention to add a second name. Whilst it might be said that the removal of the headstone could have served as a warning it seems to me that, in the distressing circumstances of attending a family funeral, Mrs Steel should not be criticised for seeking to rationalise it as she reports she did.
12. In short, I am quite satisfied and find that the remains of Sylvia Screen were buried erroneously in her sister's grave and not in the vacant adjacent plot as she had intended and for which she had made provision. This was a mistake, pure and simple.
13. There could scarcely have been any less delay in the petitioner acting upon the discovery of the mistake: the petition was issued just seven days later.
14. The Town Clerk, who is the proper officer of Prudhoe Town Council, is on leave as this judgment is written but Stephanie Kirby, the Deputy Clerk, has confirmed that, on his return, he will issue a letter of authority giving consent to the proposed exhumation.
15. The funeral director has confirmed that the construction of the coffin, oak veneered medium density fibreboard with a waterproof membrane, is such that there will have been no, or no meaningful, degradation in its integrity in the

short time since Sylvia Steel's remains were interred such that there is no reason why it cannot easily be retrieved and re-interred.

16. Accordingly, a faculty will issue forthwith as sought on the following conditions:
- (a) The petitioner shall obtain and produce to the Registrar a letter of authority from the proper officer of Prudhoe Town Council consenting to the exhumation and reinterment;
 - (b) On receipt of the said letter of authority, the exhumation from plot 223 be carried out with due care and regard for decency, early in the morning with the plot screened from public view;
 - (c) the re-interment in plot 224 be forthwith;
 - (d) any terms imposed by the Environmental Health Department of Prudhoe Town Council are complied with.

His Honour Judge Simon Wood
Chancellor
20 August 2023