

Neutral Citation Number: [2023] ECC Lon 1

IN THE CONSISTORY COURT

DIOCESE OF LONDON

In the matter of Hampton Cemetery

-and-

In the matter of a faculty petition 4304 and dated September 7, 2022 of Kenneth Peter Tolfree for the exhumation of the mortal remains of his mother, the late Luise Karla Hoting Wilhelmine Tolfree

Judgment of the Chancellor

January 23, 2023

Etherington Ch:

1. The Petitioner, Mr Kenneth Peter Tolfree, seeks the exhumation of the mortal remains of his late mother, Luise Karla Wilhelmine Hoting Tolfree from consecrated ground in Hampton Cemetery in the diocese of London in order to have the remains looked after by her family on the Isle of Wight until a plot has been arranged on the Island.
2. Mrs Tolfree's remains lie in Hampton Cemetery which is under the control of the London Borough of Richmond upon Thames. She was buried there on Monday, September 4, 1989 in Columbarium Niche No. 18. Her two other sons, Robin Tolfree and Ricky Tolfree and her grand-daughter Ms Deborah Campbell consent to the request for exhumation. Ms Campbell gives her address as being on the Isle of Wight. Robin Tolfree's address is in Teddington, Middlesex and Ricky Tolfree's address appears to be in the Bournemouth area.
3. The reason given in the petition is one often received by Consistory Courts when considering petitions for exhumation. The Petitioner and some other family members now reside on the Isle of Wight and no-one will be able to clean the memorial plaque by reason of its distant location.
4. The London Borough of Richmond upon Thames' cemetery service does not oppose the petition and accepts the grounds given by the Petitioner.
5. On January 9, 2023 I gave written Directions. My view was that the case was suitable for disposal by written representations and the Petitioner consented to this course. He chose not to make any further written representations.
6. I set out then some of the concerns I had about the application. First, the fact that burial in consecrated ground is generally regarded as final, subject to a

compelling exception. Second, the length of time the remains have lain in what would normally be a final resting place. Here it is nearly 34 years which is a considerable time. Third, that the grounds given here are locational ones. Families move over time and the problem of looking after memorials comes to many and, indeed, eventually to nearly all.

7. It can sometimes be possible to reunite family members in a shared plot or vault and that can be a circumstance which may justify exhumation. That is not proposed here and, indeed, no plot of any kind has yet been arranged – the proposal being that the family look after the remains until a plot is arranged somewhere. I do not know whether this would involve ultimately moving the remains from consecrated ground in Hampton to unconsecrated ground.
8. Even if one of her sons cannot look after the memorial (given one appears to live in Teddington at present), I cannot permit an exhumation simply because family members have moved their addresses.
9. I do not know what Mrs Tolfree's own wishes would have been: for many people, disturbance of their earthy remains is not a wish and they die expecting to be buried in their final resting place. I appreciate that the family which remains may feel differently and that they may suffer feelings of guilt when the point comes at which they cannot visit or look after a memorial, for whatever reason. The truth, however, is that this is a service given to a deceased for a time. It cannot be permanent because of the nature of earthly existence.
10. If at some point the family have a definite family plot or vault in consecrated ground where it is proposed that the remains of family members, including Mrs Tolfree, may be reunited, then there may be better grounds for seeking exhumation in the future, but, in this case, as the evidence stands, in light both of the case-law and general principles relating to permanent exhumation from consecrated ground, the petition has to be refused.
11. I make no order as to costs for this short judgment.