

Neutral Citation Number: [2026] ECC Wor 2

Private Petition Number: 26/12

Judgment of the Chancellor of the Diocese of Worcester

Petition For Exhumation of The Body of Bryan Kenneth Jones

Re: St Mary's Church, Kempsey

JUDGMENT

1. A petition dated 28 February 2026 was lodged by Mrs Michelle Stevenson seeking permission to exhume the mortal remains of Mr Bryan Kenneth Jones, her father.
2. Mr Jones died on 17 December 2025 and his body was buried in the churchyard of St Mary's Church, Kempsey on 19 January 2026. He had, in principle, the benefit of a space having been reserved for his remains under the order of the previous Chancellor of Worcester, the Worshipful Charles Mynors, dated 19 January 2005. I understand this space had been chosen for reservation by him and his family.
3. However, when the undertaker attempted to dig that grave it became clear that the burial could not go ahead in that space due to the coffin in the neighbouring space not being centrally located. It encroached too far onto the reserved space, such that the burial could not safely go ahead. However, this was only discovered mid-morning on the day of the funeral set for 2pm. At very short notice therefore an alternative location was allocated, so that the funeral and burial could go ahead. However, there was no consultation with the family prior to allocating the space.
4. Further, the family were not given the option to delay the funeral and burial pending resolution of the problem of the encroachment. I am told that had that option been given to them, they would have delayed the funeral while matters were resolved.
5. I understand that the death was sudden and violent, in that Mr Jones tripped and fell downstairs causing severe and fatal brain damage. Until that point he had been fit and well. The manner and suddenness of the death, together with the burial not going ahead in the chosen space has led to what I am told is severe distress on the part of the widow and wider family. The petitioner therefore seeks

permission for the remains of Mr Jones to be exhumed and reburied elsewhere in the same churchyard.

6. There is a preference expressed in the paperwork for Mr Jones' remains to be placed in his reserved grave. However, to do that would require the relocation of the encroaching coffin (presumably within the same grave but moved away from the reserved plot if possible) and no faculty application is before me for the exhumation and reburial of those remains. That would require a separate application with notice to the next of kin of the person whose remains are in that coffin. This has not taken place. Whether by choice or oversight the fact that Mrs Stevenson is not seeking such an order is a kindness, so that another family does not have to suffer distress by the disturbance of the remains of their loved one. I shall bear that in mind as I determine this petition.

The law

7. The law which I am obliged to apply in considering this petition is set out in the leading case of *Re Blagdon Cemetery* [2002] Fam 299, Court of Arches. This established the following principles:
 - a. Burial within a Churchyard, or other land consecrated under the rites of the Church of England, should be regarded as permanent – a *final* resting place. This is because it is symbolic of entrusting that person to God for resurrection. The Court of Arches quoted with approval the following theological formulation prepared by the Right Reverend Christopher Hill, then Bishop of Stafford,
*“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. This commending, entrusting, resting in peace does not sit easily with “portable remains”, which suggests the opposite: reclaiming, possession, and restlessness; a holding on to the ‘symbol’ of a human life rather than a giving back to God’.”*¹
 - b. Departure from that approach will only be permitted in exceptional circumstances. That is, the petitioner seeking an exhumation must 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 (that is, burial of a body or cremated remains in a consecrated churchyard or consecrated part of a local authority cemetery) is final.²
 - c. Medical reasons causing difficulty for a bereaved relative to visit the grave would not be sufficient save for, perhaps, in the most extreme cases.³

¹ *Re Blagdon Cemetery*, para 23.

² *Re Blagdon Cemetery*, para 35.

³ *Re Blagdon Cemetery*, para 36 (i).

- d. Lapse of time may be relevant, particularly where there is a long delay with no credible explanation for it.⁴
- e. Mistake as to the location of a grave can be a ground upon which an exhumation may readily be granted, as that amounts to the correction of an administrative error, rather than an exception to the presumption of permanence. A mistake may also occur due to lack of knowledge that the burial is taking place in consecrated ground, and for those without Christian beliefs it may be said that a fundamental mistake had been made in agreeing to a burial in consecrated ground. But a change of mind as to the place of burial on the part of relatives or others responsible should not be treated as an acceptable ground for authorising exhumation.⁵
- f. The support of close relatives is a relevant factor, but not the support of other people.⁶ I should add that in my view the support of close relatives for a petition that does not otherwise come within the exceptionality test would not thereby bring the case within the test, but if one or more close relatives object this would be a powerful argument against an exhumation that might otherwise have met the test.
- g. There should be regard to precedent, so that cases on similar facts are decided in similar ways, because of the desirability of securing equality of treatment, so far as circumstances permit it, as between petitioners.⁷
- h. Burial in a family grave is to be encouraged because such graves express family unity and are environmentally friendly in demonstrating an economical use of land for burials.⁸ However, it should not be assumed that whenever the possibility of a family grave is raised a petition for a faculty for exhumation will automatically be granted. As in this case it is to be expected that a husband and wife will make provision in advance by way of acquisition of a double grave space if they wish to be buried together.⁹
- i. There is no particular difficulty, if the petition is otherwise justified within the exceptionality test, that a proposed transfer is proposed to be from consecrated to unconsecrated land that is part of a local authority cemetery. Local authorities can be presumed to properly undertake their legal responsibilities for the care and maintenance of their cemeteries, such that earlier authorities refusing removal from consecrated ground to unconsecrated ground do not apply in those circumstances.

⁴ *Re Blagdon Cemetery*, para 36 (ii).

⁵ *Re Blagdon Cemetery*, para 36 (iii).

⁶ *Re Blagdon Cemetery*, para 36 (iv).

⁷ *Re Blagdon Cemetery*, para 36 (v).

⁸ *Re Blagdon Cemetery*, para 36 (vi).

⁹ *Re Blagdon Cemetery*, para 40.

8. As has been pointed out in subsequent cases, it was not intended that this guidance is exhaustive – each case must be treated on the facts of its specific circumstances to consider whether the principal test of exceptionality is met.

Application of the law to the present case

9. Applying the criteria set out in *Re Blagdon Cemetery* to the facts of this case the following can be determined.
10. There is evidence of significant understandable distress in this case, however I have not been shown that there is medical need in Mrs Jones, Mrs Stevenson or any other person for the relocation of Mr Jones' remains. Nor is this a case where the creation of a family grave is a factor.
11. The petitioner acted swiftly issuing her petition within less than two months of the burial taking place. All family members are in support of the proposal. The incumbent, the Reverend Ms Kat Mepham is also supportive and she reports that the Archdeacon has met with the family and considers the relocation of the grave to be in the family's interests.
12. This case is analogous to the 'mistake' criteria. Mr Jones' remains were not buried in the correct grave, that is the one for which he had obtained a reservation, due to the encroachment of the other coffin. The family were not given sufficient opportunity to choose (subject to the incumbent's right of veto) an alternative location for the burial and were not in a fit state to consider delaying the funeral and burial in light of the very short period of time before that service in which the difficulty came to light. This has the effect of the burial feeling to the family like 'unfinished business' and hence not achieving the purpose of their husband's / father's 'final resting place' as intended by the Christian understanding of burial.
13. Whilst this case is not on all fours with previous reported 'mistake' cases, it is in my view sufficiently similar to be permitted. *Re Blagdon Cemetery* itself makes it clear that the criteria are simply examples of the principle of 'exceptionality'. In my judgment the test of exceptionality is met here as there was clearly a series of unfortunate aspects of the original burial. It was not in accordance with the wishes of the deceased who had reserved a space for himself, because it was not able to be used. Nor was it in accordance with the considered wishes of the family, due to the pressurized circumstances in which the decision to go ahead with burial in an alternative location was made.
14. As indicated above, I also take into account that, had the family attempted to insist on the burial of Mr Jones' remains in his reserved location, there would have been further faculty proceedings seeking to exhumate another person's remains, causing distress to another family. Seeking to relocate Mr Jones' remains to an alternative acceptable location within the churchyard without causing distress to another family is an appropriate way to resolve the 'mistake' of the burial of that other coffin out of the correct alignment, if that is what took place. There is some doubt as to that as it

is also reported that the land was very waterlogged when the attempt to dig a grave for Mr Jones' remains was undertaken. If that is an area that regularly becomes waterlogged it may be that the other coffin has encroached via the operation of water and gravity. But if so, that is also sufficiently exceptional, in all the circumstances of this case, to permit the relocation of Mr Jones' remains.

ORDER

15. I accordingly direct that a faculty be issued permitting the exhumation of the remains of Mr Bryan Jones from their current location within the churchyard of St Mary, Kempsey subject to the following conditions:
- a. that the remains are immediately thereafter reinterred into such other location within the churchyard of St Mary, Kempsey as is agreed between the petitioner, her mother Mrs Pauline Jones and the incumbent, the Reverend Kat Mepham, noting that determining the specific location for a burial is a right held by the minister under *Ex parte Blackmore* (1830) 1 B & AD 122; and
 - b. that the exhumation and reinterment take place reverently and discreetly at the direction of the incumbent.

THE WORSHIPFUL JACQUELINE HUMPHREYS
CHANCELLOR OF THE DIOCESE OF WORCESTER
24 JULY 2026