

Neutral Citation Number: [2026] ECC Wor 3

IN THE CONSISTORY COURT OF THE DIOCESE OF WORCESTER
CASE NUMBER 26/05

RE: PERSHORE CEMETERY
IN THE MATTER OF AN APPLICATION FOR THE EXHUMATION AND RE-INTERMENT OF
THE MORTAL REMAINS OF DAVID RICHARD JONES

JUDGMENT
DELIVERED ON 25 July 2026

1. By a petition dated 16 January 2025 Vivian Jones, the son of the deceased David Richard Jones applied for permission to exhume the ashes of his late father from Pershore Cemetery and relocate them to a new grave in Wooburn Green Cemetery.

The Facts

2. Mr David Jones died on 28 November 1997 and was buried on 16 December 1997. His remains have therefore been in Pershore Cemetery for nearly 30 years. Nevertheless, the undertaker had indicated that they would be able to remove them, irrespective of condition, by enclosing the remains and the original casket within a larger casket.
3. The application has the consent of Pershore Town Council, the owners of Pershore Cemetery. Adrian Jones, who I understand is another son of the deceased, currently living in Portugal, also consents to the exhumation and relocation. Mrs Mary Marguerite Jones, the widow of the deceased who arranged the burial in 1997 has herself since died in 2025 or very early 2026, at the age of c.95 years.
4. The reasons given in the petition for the relocation of David Jones' remains were that:
 - a. David and Mary Jones "wished to be buried together locally near family;"
 - b. It was 'written in the will' that Mr and Mrs Jones should be interred in the same plot locally near their family.
 - c. Mr and Mrs Jones lived in Bourne End Buckinghamshire for 37 years and only briefly lived in Pershore.
 - d. It is 'not just the wishes of Mr and Mrs Jones to be reunited and buried together in their home town but of all the surviving family'.
 - e. There was confusion as to how the ashes were to be treated in 1997, initially the intention was to scatter them in Wales, then to scatter them at Worcester

Crematorium and then they 'were collected' but 'the funeral directors have no record of the ashes being buried at Pershore'.

5. I was also informed that the family's intention is to inter Mrs Jones' remains in Wooburn Green Cemetery where "she initially indicated the burial should take place".
6. This petition raised some questions so I sought further information from the petitioner namely:
 - a. Whether it was the will of Mr Jones, Mrs Jones or both that stated that the parties' remains were to be buried together at Wooburn Green
 - b. Whether the 30-year-old remains were capable of exhumation and
 - c. Would it be possible for Mrs Jones' remains to be buried with those of Mr Jones in Pershore and if so, would the petitioner be content with that, and if not, why not.
7. The responses were:
 - a. It was Mrs Jones' will but it does not say Wooburn Green specifically.
 - b. The practical arrangements for exhumation were confirmed as set out above.
 - c. Pershore has no relevance to the family and it would be inconvenient to care for the plot if both were buried there.
8. This raised further questions, so I asked the following:
 - a. For a copy of the will of the late Mrs Jones;
 - b. How it was known that the remains of Mr David Jones are in Pershore Cemetery if the funeral directors had no record – and whether there was any memorial to him in that location.
 - c. Whether Mrs Jones took any steps to have Mr Jones' remains relocated to Buckinghamshire during her life
 - d. When Mr and Mrs Jones moved to Pershore and Mrs Jones moved back to Buckinghamshire.
9. In response the will was provided and the other questions answered as follows:
 - b. The cemetery had records and Mrs Jones herself organised this. The question as to memorial was not answered.
 - c. There were no attempts by her to remove Mr Jones' remains elsewhere, so far as the petitioner was aware. It was not discussed.
 - d. Mr and Mrs Jones moved to Pershore in 1987 although I am not told the reason for that relocation. Mrs Jones would have been approximately 57 at the time. Mrs Jones returned to Buckinghamshire to be cared for by her family in 2025. She died shortly after moving back to Buckinghamshire. She was born and brought up and married in Buckinghamshire between 1930 and 1987. Her family are still living in that area.
10. The last will and testament of Mary Marguerite Jones is dated 31st March 2011. At paragraph 3 of that will it states: "I desire to be cremated and my ashes to be

interred at Pershore Cemetery with those of my late husband.” No evidence of Mrs Jones’ wishes outside of that expressed in her will has been provided.

The Law

11. 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 for 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
 - 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

¹ *Re Blagdon Cemetery*, para 23.

² *Re Blagdon Cemetery*, para 35.

³ *Re Blagdon Cemetery*, para 36 (i).

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

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 objected 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. In such a 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.

12. 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.

13. Within the Diocese of Worcester my immediate predecessor Charles Mynors, in his case *Re Astwood Cemetery* (14 April 2014)¹⁰ set out ‘situations which do not of themselves justify exhumation’. These are:

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.

¹⁰ <https://www.ecclesiasticallawassociation.org.uk/index.php/judgements/menu-exhumations/re-astwood-cemetery-2014-charles-mynors-ch-worcester/viewdocument/370>

- that there has been a change of mind on the part of the relatives of the deceased who were responsible for the initial interment, or
- that some or all of those relatives are no longer able conveniently to visit the grave, either because of advancing years or deteriorating health, and a resulting change of residence, or for any other reason; or
- that a surviving spouse or other close relative has subsequently been buried elsewhere.

14. This approach was explained with the following reasoning in paragraphs 54-56:

“Those factors, which are commonly argued, arise in many cases, and do not in themselves indicate that a faculty should be refused; but they are not sufficiently “exceptional” to justify setting aside the normal presumption against exhumation. In particular, in many cases petitioners rely on a chain of circumstances which, when analysed, in truth amount to no more than a realisation that they now wish they had made a different decision at the time of the initial interment. That will not on its own be sufficient; although the court will consider carefully the factual position in each case to see whether they are sufficiently unusual to justify the issue of a faculty.

Nor is it relevant to show that a surviving spouse or other close relative has subsequently been buried elsewhere, or wishes to be buried (in the future) in the same place as the deceased – but that a further burial at the same location as that which has already taken place is either for some reason now impossible or else considered to be undesirable.

It is sometimes argued that the refusal of a faculty for the exhumation of a spouse or parent will lead to great distress on the part of a surviving relative (often a widow or widower). However, this will only rarely justify the grant of a faculty in the absence of any other exceptional reason.”

Application of the Law to the facts of this case

15. In my judgment there is nothing in the facts of this case to meet the test of exceptionality. There are no relevant medical concerns. There has been a very long delay in seeking to move Mr David Jones’ remains, caused, it appears by his widow having no desire to remove them. The two sons of David and Mary Jones support the petition, but that in itself is not sufficient to justify it.
16. There appears to have been no mistake in burying the remains of Mr David Jones in Pershore Cemetery. It appears to have been a settled decision, possibly after a couple of other options were considered. Mrs Jones’ decision to bury her late husband’s remains in Pershore in 1997 was sufficiently settled that some 14 years later she wrote her own will requesting her remains were buried with his in that very location. By this time, she had lived in Pershore for some 24 years and presumably built a life

there. By the time she left Pershore shortly before her death, she had lived there for around 38 years, for almost three quarters of that time after the death of her husband. She did not change her will between 2011 and her death which I infer was in late 2025 or possibly the very early weeks of 2026. She did not move back to Buckinghamshire other than to be cared for in the very final few months of life. There is no evidence that she wished to change the contents of her will at that time.

17. There is an intention to create a family grave in Wooburn Green, with the remains of Mr and Mrs Jones being interred together. However, there is nothing to prevent a family grave being created in Pershore, in accordance with the wishes of the late Mrs Mary Jones. As her executors Mr Vivian Jones and Mr Adrian Jones have the authority to enable Mrs Jones' wishes in that regard to be complied with.
18. I note that this will be inconvenient to Mr Vivian Jones, the petitioner, who lives in Flackwell Heath, in terms of tending the grave. Flackwell Heath is around 96 miles from Pershore. However, his brother Adrian Jones lives in Portugal so neither UK location is of any particular convenience to him. I am not told where the six grandchildren of David and Mary Jones named in Mary's will currently live. I assume that all or most of them are adults given the advanced age of Mary at her death.
19. However, inconvenience to relatives is not a factor that provides sufficient justification for exhumation, as was clearly set out in *Re Astwood Cemetery* above.

Conclusion

20. This petition is therefore refused.

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