

Neutral Citation Number: [2024] ECC Nor 4

IN THE CONSISTORY COURT

DIOCESE OF NORWICH

In the Matter of St Mary's Churchyard, Shotesham

-and-

In the matter of a Petition of Laura Wollacott

To introduce into the churchyard a certain Memorial Stone

JUDGMENT OF THE CHANCELLOR

1. This is a petition of Laura Wollacott to introduce a memorial stone into the churchyard of St Mary's, Shotesham. The points at issue are whether the depiction of the Star of David at the top of the stone infringes the Churchyard Regulations for the Diocese of Norwich issued by Arlow Ch in 2016 and, if so, whether a faculty should nevertheless be granted.
2. I have encountered this issue once before when I was Chancellor of the Diocese of St Edmundsbury & Ipswich: *In re All Saint's and Saint Andrews, Honington with Sapiston* [2017] PTSR 664; WLR (D) 299; [2017] ECC SEI 3. I was asked to approve a faculty to permit the depiction of the Star of David on a War Grave in the churchyard to a man, an RAF Pilot Officer Harold Rosofsky, whose plane (which he was flying) on September 7, 1939 crashed due to mechanical failure killing both the Pilot Officer in question and his crew. They were buried in the churchyard. The Officer had come to England from South Africa as a young man in 1936 (already a pilot) and joined the RAF. Two letters in the 1940s to his family went unanswered (it was obviously an internationally unsettled time) and a standard War Graves memorial was erected with an engraved Cross. To confuse matters, Harold, who was Jewish, had been carrying a card identifying him as a Christian. The date of the accident will be noted as should be the fact that he was intended, had the accident not supervened, to fly over Germany. The reason for his being given such a card does not require explanation. So, his body lay with his crew alongside him in the churchyard until an archivist working with a well-known and highly respected charity concerned with Jewish ex-servicemen saw the memorial in the churchyard, made some enquiries and discovered the truth.
3. That case required me to consider both some fundamental principles of law and the specific (and on any view highly exceptional) factual circumstances including the fact that Harold Rosofsky died in the service of this country to which he had come three years earlier, had no chance of expressing any view as to where he should be buried and no expectation that his plane would fail in the air over Ipswich. A Cross had been placed on his memorial in error for understandable reasons, none of which were the fault of the deceased or his family. Clearly, the application for the removal of the Cross could not possibly be denied. The question of whether it could be replaced by the Star of David was a more difficult question, but one which I resolved in the Petitioner's favour.

The issue

4. The underlying issue, not always appreciated by PCCs, is that any faculty decision sets a precedent. Ecclesiastical judges cannot make different decisions on identical or similar facts as a matter of whim. A future petitioner is entitled to say: 'you granted 'x's petition, why is mine any different? If the Star of David is permissible, why is a symbol associated with my life or (non-Christian) religion not permissible?'
5. The first question to determine, therefore, is whether, ordinarily, a symbol of a religious faith, other than Christianity, may be placed on a memorial stone in a churchyard or area of a cemetery under the jurisdiction of this court. The Churchyard Regulations for the Diocese of Norwich state at regulation 10.4: "inscriptions and pictures on memorials should be simple, dignified and reverent and *should have a clear Christian or traditional funerary symbolism or reflect the life and work of the deceased...*" Religious symbols placed on memorials will normally be taken to be a representation of the deceased's faith.
6. Burial in a churchyard is the entitlement of any parishioner provided the churchyard is open. There is no requirement for a parishioner to belong to any, or any particular, faith. This may stem from earlier times when there was a strong presumption that all parishioners were Christians and faced likely penalties and persecution if they were not. It may also be because of the problem of making difficult enquiries at a very sensitive time and because those seeking burial in a churchyard, as opposed to unconsecrated ground in a secular cemetery, know that the churchyard is obviously part of a Christian church.
7. The right to burial for a parishioner should not be confused with a supposed right that those burying a loved one have an untrammelled right to any sort of memorial or stone or inscription on it. That supposed right does not exist.
8. Symbols, other than the Christian cross are therefore generally inappropriate: either they will be a reflection of a religious faith other than Christianity or a secular or political symbol that would not be suitable on a memorial stone. There is, of course, no requirement for any symbol on a stone and not all Christians elect to have a Cross.
9. There is no question other than that the Jewish religion and the Christian religion are intimately connected, but they are not the same religion and they have conflicting beliefs. The fact that the Star of David features sometimes in churches and cathedrals, often in stained glass, is testament to that shared history and part of the telling of that story. A religious symbol on a tombstone is understood to be there to declare the deceased's faith. Symbols for other purposes, religious or secular, are not ordinarily permitted on memorials.

The background to the application

10. The petitioner has explained the background to her application. Her husband, Raz, died having very sadly contracted the particularly cruel illness, Motor Neurone Disease. He was born into the Jewish faith, not brought up strictly within it, but in a family which celebrated Jewish customs and traditions. A menorah was always displayed in his home and this was eventually handed down to him, holding a special place and meaning to the family.
11. He joined a kibbutz as a young man, forming lifelong friendships and, I am told, that this both helped him in his growth as a person and influenced the values he held all his life including tradition, family, love and helping others. For a time when he returned

home, he began attending synagogue becoming a recognisable figure who carried the scrolls.

12. He subsequently became attracted to the Quaker faith. Quakerism is a protestant Christian faith particularly well known for its commitment to peace, philanthropy and social justice. I am told that Raz himself was a campaigner against nuclear armament, land mines and a number of other causes. I can accept without difficulty that he made a considerable and very favourable impression on other people.
13. I also accept that he retained his links to his Jewish identity as would be expected, and I have read what is written about those continuing links, shared as a family. I have also read of his contribution to the village and the fact that his Jewish descent was well known. I also accept that in the last ten years he had taken a particular interest in his Jewish ancestry. I do note, however, that after considerable thought during his struggle with MND, he came to the conclusion that he wished to have a Christian funeral service and expressed views about how he wished it to be conducted. It was in this church and it fully celebrated his life and background.
14. I appreciate the significance that is given to the Star of David by the family and I have read what is said by the family about this. I understand the history of the symbol, and I also comprehend the inter-faith emphasis that formed part of the funeral.

Conclusion and decision

15. Unfortunately, this does not mean that those of other faiths or whose ancestry or culture involves other faiths are able to display these as symbols in a Christian churchyard. Whilst those of any faith may be buried there, provided they lived in the parish at the time of their death or have obtained the permission of the incumbent/PCC or the court, the only symbol that may be displayed in a churchyard (save in the most exceptional of circumstances) is the Christian Cross. It is always open to people to be buried in secular churchyards or those that are dedicated to another particular faith. Very occasionally, a section of an existing churchyard is designated for Jewish burials because of the unavailability of any Jewish cemetery. This is not the case here.
16. Judaism, Christianity and Islam (in chronological order) are all monotheistic religions worshipping the one God. Their specific beliefs, however, are different. I can well imagine that a Christian Cross on a headstone in a Jewish cemetery or Jewish section of a cemetery might well be viewed as improper, whatever its motivation.
17. There is also a complication here in that I read the Petitioner to be saying that the family do not want the Star of David as an expression of Raz's Jewish faith, which would make one wonder why he was being buried in an Anglican churchyard, but rather of his Jewish descent of which he was understandably proud. I suspect that his spiritual journey took him in a number of directions and it seems to me that he preferred the things that binds those of different religions and denominations rather than those that separate them.
18. I do not know whether Raz specifically wanted the Star of David on his memorial stone or whether it was a subsequent wish of the family, but I am afraid that I do not judge the facts here constitute an exceptional reason for departing from the normal rules, unlike, for instance, Pilot Officer Rosofsky whose particular circumstances did.
19. Whilst the wishes of families and loved-ones are always taken into account when considering a memorial stone, there are regulations and they have to be applied fairly. If symbols other than the Christian Cross were allowed in one case (unless wholly

exceptional) then they would have to be allowed in every case that was of a similar nature. Symbols, other than the Cross, are requested on occasions. Requests over the years have ranged from those relating to people's descent or backgrounds, through all kinds of passions and interests (genuinely held and often an identifying feature of the deceased) but with very few exceptions (War Graves and the like) they are not permitted. Religious symbols, other than the Christian Cross, are not ordinarily permitted, particularly where they will be taken to be declaring the deceased's non-Christian faith whatever the family's actual motivation for wanting them and even where the deceased's actual faith was not the one apparently designated by the symbol.

20. The rest of the memorial is permissible and I will permit the bramble given the deceased's love of the natural world. A quotation from the Old Testament would also be acceptable - e.g. "May his soul be bound up in the bond of eternal life" – from Samuel 25:29. That is just an example.
21. I regret that in this judgment I have to rule against the Star of David being permitted to be placed as a symbol on the memorial stone as requested by the Petitioner. I appreciate that this will not be welcome news for the Petitioner or the family and I hope that some way can be found, such as an appropriate verse from the Old Testament, to convey the deceased's Jewish descent and identity. I did ask through the Registry whether the Petitioner might prefer to have my successor as Chancellor (who is shortly to take office) to judge this petition but she preferred not to wait.

June 16, 2024
Etherington, Ch.