

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

Church of St Peter
Bourton-on-Dunsmore with Draycote
Re John Mark Parnaby (deceased)

**Private Petition for permission to add an
additional inscription to a headstone
C6720/2021**

JUDGMENT

1. By an application dated 20th June 2021 Ms Basia Kurzweil makes petition for the addition of further text to an upright memorial stone commemorating John Mark Parnaby and the re-fixing of the headstone to a new foundation. (The new foundation would apparently be required following temporary removal, necessary to add the new inscription, to comply with current NAMM guidance. It presumably would not be required if the faculty for the new inscription is not granted).
2. Ms Kurzweil states she was Mr Parnaby's life partner for a period of about 25 years and was the principal beneficiary of his estate. Unfortunately there is a rift between some other members of the late Mr Parnaby's family and the Petitioner. Ms Kurzweil is upset that her connection with the deceased was not specifically mentioned in the inscription on his memorial. The headstone was commissioned and paid for by Lilian Parnaby, Mr Parnaby's Mother, so under the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 it would at first appear she is the lawful owner of the memorial. However, it has been stated to me that she

was reimbursed in full from Mr Parnaby's estate for the cost of the headstone. Ms Kurzweil asserts, in effect, that the memorial therefore belongs to Mr Parnaby's estate and, as a principal beneficiary of his estate, she suggests she is permitted to have additional wording added to the headstone without the consent of other members of his family. I am not convinced that assertion is correct.

3. The memorial headstone in question was erected at the request of the late Mr Parnaby's Mother, but it appears the authorisation was flawed. This is because the purported permission was actually given by David Snead, a Churchwarden at St Peter's (or Professor David Snead as he addressed himself in some correspondence I have seen), who clearly has no right or authority to permit the installation of a headstone in a Churchyard. It would seem necessary to here repeat the legal position that no memorial may be erected in a churchyard without a faculty, save where the Chancellor has delegated authority **to the appropriate members of the clergy**. The Diocese of Coventry Churchyard regulations are easily accessible online and should be referred to by any parish representative when presented with an application to install a memorial. The Churchyard Regulations are quite clear about the role of Churchwardens when an application is presented during an interregnum: *"Where there is a vacancy in a parish the authority to approve memorials is to be exercised by the area dean in consultation with the churchwardens. Neither churchwardens nor a Parochial Church Council have any authority to permit the introduction of memorials into a churchyard. Incumbents are not entitled to delegate their authority to permit memorials to a churchwarden or any other person although they may consult a churchwarden or other suitable person when considering whether a proposed memorial is appropriate in a particular churchyard."*
4. I am concerned that there may be other unauthorised memorials within the Churchyard if the Churchwarden has purported to grant authority for this memorial. The monumental masons who introduced the current memorial should, however, have noticed that the purported authorisation was signed by

someone describing himself as ‘Churchwarden’, which they should have known was insufficient. Monumental masons operating within the Diocese of Coventry are expected to be fully conversant with the Diocesan Churchyard regulations. I shall ask that one of the Diocesan Registrars writes to the monumental masons to remind them to refer to the Diocesan Registry without delay any future application for a memorial purportedly authorised by someone specifying himself or herself to be a Churchwarden, or any other representative of the Church other than a member of the clergy. I shall further ask that the Archdeacon writes to or speaks with the Churchwarden(s) of the parish reminding him/them that, even during an interregnum, the Churchwardens have no right to authorise memorials within the Churchyard (or, see paragraph 9, to reserve a burial plot in the churchyard).

5. I cannot, of course, be critical of the late Mr Parnaby’s Mother over the process of introduction of the memorial as she did the right thing by submitting an application in writing, on the prescribed form, to the Church representatives. It may have been better had she also at least advised Ms Kurzweil, who was apparently a principal beneficiary of the estate of the late Mr Parnaby, before seeking installation of a memorial headstone. Unfortunately Ms Kurzweil has similarly chosen that there should be no direct consultation with others in making the current application. At my behest she was advised that she should seek to obtain permission from Mrs Parnaby and from the late Mr Parnaby’s other close relatives, including his two children, for the additional inscription she wants added to the headstone. She has specifically declined to make such contact. As a consequence the Diocesan registry staff have been directed to notify Lilian Parnaby and the other heirs in title of the late Mr Parnaby, in particular his two children (George and Melissa), about the proposed additional text upon the headstone. As a result both Lilian Parnaby and Christopher Parnaby (brother of the deceased) have indicated in writing opposition to the petition, and each has served Form 5 on the Petitioner (albeit Mr Christopher Parnaby decided that he did not wish to serve the form on the address on the

petition, so chose to carry out - in my view, unnecessarily - enquiries as to other addresses relating to the petitioner. Save in exceptional circumstances service of a Form 5 on the address given in the Petition will generally be deemed good service). Ms Kurzweil originally indicated that she has received the Form 5 documents, but at first chose not to open and read that submitted by Lilian Parnaby. She has been served with Form 6 so she can indicate any response to the objections raised and has responded to the issues raised by both Christopher and Lilian Parnaby. I have been informed that George and Melissa, the late Mr Parnaby's children, have declined to become involved in these proceedings, although Melissa did send an email/text to Professor Snead in May 2021 showing support for change to the memorial to acknowledge the Petitioner's relationship with her Father. The message did not indicate that Melissa knew the exact wording that was proposed. I know that both George and Melissa are friendly with Ms Kurzweil but presumably they do not wish to stand in no man's land between their Grandmother and Uncle on one side and Ms Kurzweil on the other.

6. It is often said that becoming involved in litigation overinflates angst and causes issues that no participant previously realised would arise, and that certainly seems so in the case concerning this petition. Ms Kurzweil has raised 'formal complaint' against the Diocesan Registry staff for treating her petition 'without sensitivity', when all they have done is follow my direction that the late Mr Parnaby's relatives should formally be informed of the petition to alter his memorial. Mr Christopher Parnaby has been curt in his communications with the Registrar, if not actually treating that respected ecclesiastical lawyer with disrespect. Fortunately she is experienced enough to know the stresses and tensions arising in contested proceedings, and she is very forgiving. It is relevant, however, to raise the fact that emotions have been and still are running very highly charged amongst those involved in this matter. The concept under the overriding objective of the parties co-operating together, in the conduct of

the proceedings and to resolve matters in issue, seems to have remained elusive to the parties in this matter.

7. The situation that has arisen does mean that the memorial itself was introduced with flawed authorisation, although that does not invalidate the entire process by which the stone was installed. That said, the memorial has been in place for some time now and the family of the late Mr Parnaby would have no reason to believe that there had been any irregularity in the installation of this headstone. I would need to issue a restitution order to remove the memorial now if I believed that was appropriate, which I do not.
8. The current headstone is of Hopton-Wood Stone in a cream colour with a gently arched upper edge, set upon a plinth with a single flower holder. (I do note that the memorial masons instructed by Ms Kurzweil refer to the memorial as being in Nabrasina Limestone). The current inscription reads as follows

JOHN MARK PARNABY
21.09.1963 - 15.09.2018
Beloved Son, Brother and Dad
Cherished by
Friends and colleagues
Sadly Missed.

The Petition seeks to add the following:-

Loving life Partner + Soulmate to Basia
“Until we meet again, JCK”

JCK is apparently an abbreviation for ‘I love you’ in Polish, which Ms Kurzweil and the deceased Mr Parnaby reportedly said to each other with some regularity.

9. Photographic evidence of the current headstone shows that the inscription has been placed at the top of the memorial with sufficient room for a further inscription below. I have enquired whether there has been reservation of the grave plot for a further interment. The first response I received was that Ms Kurzweil does not intend to pursue application for a faculty to confirm her stated intention to be interred after death in the same grave as Mr Parnaby. I have seen correspondence where Professor Snead wrote in 2018 stating that as Churchwarden he has reserved the other part of the double-depth plot within which Mr Parnaby is interred for the petitioner. Again, as a churchwarden he has no right or authority to reserve a burial plot for anyone, but he has subsequently conceded that only by the issuing of a faculty can the plot be reserved for the burial of anyone else. However, without any prompting, Lilian Parnaby has stated "*I have no objections to Mrs Kurzweil being buried with my son, and I organised that on her behalf.*" However, she still objects to the inscription on the headstone being amended as requested, stating - amongst other things - that the remaining space on the headstone should not be taken up with further messages until there has been another burial in the double-depth plot. She apparently has no objection to the memorial being amended to honour the petitioner as and when she is interred in the grave.
- 10 The objections to the amendment proposed are based principally, but not exclusively, on what occurred when the late Mr Parnaby passed in 2018. It is said that Ms Kurzweil packed her things and departed from Warwickshire and returned to Yorkshire, where she still had a place of residence. The Family state that her relationship with the late Mr Parnaby had been part-time only, because during the week Ms Kurzweil stayed elsewhere. (I have seen correspondence from several people who dispute that description, although the Petitioner does accept that every four days she would return to Yorkshire). It appears that Ms Kurzweil had nothing to do with the funeral arrangements and little to do with the grant of probate. It is now also clear that she did not attend

the funeral service, stating that she was too ill from the grief and shock to return for a public ceremony that would be centred around her partner's coffin. The Family have discovered that Ms Kurzweil is still married to a Richard Kurzweil and owns property jointly with him, some of which was purchased after Mr Parnaby's demise (the documents I have seen name the spouse as Barbara Kurzweil not Basia, though Christopher Parnaby states that Barbara is the Petitioner's legal name). The Petitioner admits that she is still married to Richard Kurzweil but that both she and Mark Parnaby saw no reason why she should seek a divorce. It has been observed that Ms Kurzweil does not actually visit the grave herself, but has a friend who regularly leaves flowers on her behalf.

11. It is correct that the current inscription does not show any direct mention of a 'life-partner'. It is, however, inclusive of friends and colleagues as well as close family members, so does not exclude the fact that people other but his children, Mother and sibling(s) miss him and grieve his loss. Although not specifically named on the headstone Ms Kurzweil has, I am informed, been allowed to install a bench in the churchyard, near to the door to the Church, with inscription as follows:-

“IN LOVING MEMORY OF MARK PARNABY

Forever in our hearts - With Love Basia, George and Melissa”.

George and Melissa are, of course, Mr Parnaby's children. The existence of the bench, with inscription, displays that Mr Parnaby's offspring were on friendly terms with the petitioner and were willing to work with her. I have already mentioned that they have declined to become involved with this petition.

12. The petition for the new wording on the headstone was presented to the five members of the Parochial Church Council for St Peter's on 3rd August 2021.

Unanimously the members decided to raise no objection to the proposed new wording.

13. The members of the Diocesan Advisory Committee, at the meeting on 27th January 2022, determined to issue a notification of advice certificate of no objection for the proposed additional wording. However, the members of the Committee did specify that, in their collective opinion, the abbreviation JCK should not be used and instead the Polish words for ‘I love you’ should be spelled out in full.
14. The public notice has been displayed as required and no additional objections have arisen.
15. I have been sent correspondence from several people writing in support of the change to the memorial, many suggesting that the additional text would assist Ms Kurzweil with her grieving. I do note that several messages state that both Ms Kurzweil and Mr Parnaby’s children had been excluded from mention in the existing inscription, so I do question what information has been given to those people and whether they know what the current inscription shows and what further wording is proposed.
16. I have considered the application with care. I have to ask myself whether the proposed new wording is intended to honour the memory of the departed, or whether it is instead more about the Petitioner’s own wishes and wants? It is of note that the late Mr Parnaby’s family (his Mother, sibling(s) and Children) are not specifically named on the headstone, so to identify Ms Kurzweil by her forename would be to give her greater precedence than his closest family members, which would not be appropriate. It would only be in rare circumstances that it would be appropriate to include in the inscription on a memorial the name of someone not buried in the grave. What is proposed is also to include a very personal message that will have little or no meaning to

the other members of the late Mr Parnaby's family or to any unrelated visitor to the churchyard. Had it been proposed that a message of relevance to the entire family be included on the headstone then the Petitioner may have had a stronger argument for inclusion (but even so, personal messages incomprehensible to other visitors to the Churchyard would only rarely be appropriate). I am reminded that the Coventry Diocese Churchyard Regulations have this to say about the wording of inscriptions : "*It is to be remembered that the memorial will be read not just by those who knew the deceased in question but by those who did not. Indeed, the message conveyed to those who did not know the deceased is in many ways more important than the message being given to those who did know him or her.*" In any event, I agree with the members of Diocesan Advisory Committee that an abbreviation that would mean nothing to most readers should not be used, especially if that abbreviation is not commonly used upon headstones and memorials. Clearly an abbreviation such as RIP (Requiescat In Pace) is in a foreign language but its meaning is well known, is often translated into English using the same letters, and it is often seen in Churchyards throughout the land - I have seen no information to suggest the same could be said of JCK. If I were to permit the proposed inscription I would direct that the full expression be used and that a verified copy of a translation be kept with the church records (see *Re St. Giles Exhall [2021] EACC 1*, particularly paragraph 11.11)

17. To allow this additional inscription would cause upset, distress or even further grieving among the late Mr Parnaby's close relatives. That is not appropriate in a memorial in a Churchyard. In a recent judgment in the neighbouring diocese of Birmingham (*St Giles Church Sheldon [In the matter of Stephen Donald Homer, deceased] [2022] ECC Bir 1*) the Chancellor observed "*the Anglican teaching concerning graves is that they should not be a focus for discord and should not be disturbed unless there is clear reason that should happen. Where one member of the family objects and in the absence of any express, legal authority (such as a prior reservation of a grave space) the presumption is that*

the grave should not be disturbed.” I agree with that assessment. The burden of displacing that presumption must rest with the Petitioner. I do not find that she has rebutted that presumption. In those circumstances I do not need to consider the issue of who ‘owns’ the headstone, and thus whether consent should be sought from that person to permit change to the headstone, as the proposed inscription will not be authorised (although I have already indicated that I doubt Ms Kurzweil’s interpretation of EJCCM 2018 is correct)

18. Accordingly, for the reasons that I have given above, the faculty sought is refused. I realise that this will cause upset to the Petitioner, but to grant the faculty would equally be to cause distress to some of the late Mr Parnaby’s blood relations. The status quo should thus remain unless and until there is compelling reason for a change.
19. This has become a contested faculty and directions have had to be issued. Each party must bear his/her own costs. In addition the Petitioner must pay the court costs in accordance with the relevant fees order in the sum of £1,444.00.

Glyn Ross Samuel
Chancellor
11th August 2022.

APPENDICES

Ecclesiastical Jurisdiction & Care of Churches Measure 2018, rule 66:

- (5) “Owner”, in relation to a monument, means—
- (a) the person who erected the monument, or
 - (b) after that person’s death, the heir or heirs at law of the person or persons in whose memory the monument was erected.

Coventry Churchyard Regulations

- 18) The permission of the Chancellor is needed for the erection of any memorial in a churchyard. By way of relaxation of that legal rule the Chancellor authorises incumbents to approve memorials and inscriptions without the need for a faculty application provided that such memorials and inscriptions fall within the limits set out in these Regulations. For these purposes incumbents are rectors, vicars, priests in charge, and team vicars. Where there is a vacancy in a parish the authority to approve memorials is to be exercised by the area dean in consultation with the churchwardens. Neither churchwardens nor a Parochial Church Council have any authority to permit the introduction of memorials into a churchyard. Incumbents are not entitled to delegate their authority to permit memorials to a churchwarden or any other person although they may consult a churchwarden or other suitable person when considering whether a proposed memorial is appropriate in a particular churchyard.
- 37) It is to be remembered that the memorial will be read not just by those who knew the deceased in question but by those who did not. Indeed, the message conveyed to those who did not know the deceased is in many ways more important than the message being given to those who did know him or her. For this reason, if it is proposed that an inscription in a language other than English is to be used it will usually be appropriate to require the submission of a verified translation, so that there is no dispute over the meaning of the inscription.
- 39) Inscriptions are to be simple, reverent, and appropriate to a churchyard. They should commemorate accurately the life of the person who has died. They must also be consistent with orthodox Christian belief and should not be confined solely to expressions of personal loss or sorrow.
- 40) However, the inscription need not be confined to the name and the dates of birth and death of the person who has died. There does not have to be a characterless uniformity in the inscriptions in a churchyard. Human individuality and diversity – indeed human eccentricity and non-conformity – are gifts from God and are to be celebrated as such. Accordingly, individuality and diversity in churchyard inscriptions reflecting the diversity and different characters of those commemorated are to be encouraged. Very many churchyards are enhanced and their purpose reaffirmed by inscriptions which are varied (and often quirky or eccentric) and which convey something of the character or life of the departed person. The message that we are individuals and are loved by God as individuals with our God-given differences and eccentricities is an important part of the Christian message proclaimed in our church buildings and to which our churchyards should bear witness.
- 42) Accordingly, the incumbent may exercise considerable latitude as to the wording of inscriptions within the following boundaries. The incumbent may permit an inscription provided that the wording proposed:
 - a) Is accurate.

- b) Is consistent with orthodox Christian belief. Quotations from Holy Scripture or classical Christian poetry or hymnody are likely to be appropriate while those from the writings of other faiths or from popular culture will not normally be appropriate.
 - c) Is not over-sentimental.
 - d) Is neither flippant nor irreverent.
- 43) The incumbent may not permit an inscription which does not clearly satisfy each of those pre-conditions. An inscription which is no more than an expression of loss will not normally be appropriate (no matter how deeply felt the loss is) but an expression of loss combined with a message of Resurrection hope or of committal of the loved one to God may be appropriate. If the incumbent has any doubt as to whether the conditions are satisfied he or she should consult the Archdeacon. If the conditions are not met or if the incumbent is unwilling for any reason to allow the inscription then the inscription can only be permitted if authorised by a faculty.

Costs Assessment

I certify that this judgment took four hours to prepare. The Chancellor's fees therefore amounts to £544. In addition the costs of the registry, over and above the fees already paid, are assessed at 6 hours, meaning a sum of £900 is payable. This is considerably less than the time actually spent on this matter. The total court costs are therefore £1,444.00 to be paid within two calendar months.