

**IN THE CONSISTORY COURT AT LIVERPOOL**

**In the matter of Allerton Cemetery and the cremated remains of Bertrand Grayson**

**Watson**

**JUDGMENT**

1. In this application for a faculty, the petitioner, Janice Workman, seeks the exhumation of the cremated remains of her late father Bertram Grayson Watson, who died on 17<sup>th</sup> October 2015, and whose ashes were interred in a casket in consecrated ground at the Springwood cemetery in Allerton, Liverpool in section CH 29, grave number 734, and with the proposed re-interment at grave number 1425. The petition has been the subject of appropriate notice, and it is unopposed. I understand that there is no objection to this matter being dealt with without a formal hearing.

2. Although the cemetery is largely unconsecrated, this is not a case where an MOJ licence is required, and the consistory court has jurisdiction because the relevant plots are in consecrated ground. In support of this petition, a letter has been provided from the funeral directors which has provided cemetery plans, indicating the juxtaposition of the two plots (relatively close together), as well as a letter from the local authority which is responsible for the management of the cemetery at Allerton, indicating that there is no objection to the exhumation and re-interment.

3. The brief circumstances are as follows. The deceased Mr Watson had been married to Alice Emily Watson who passed away on 7<sup>th</sup> April 2020, and whose cremated remains are now in the plot at 1425. Mr and Mrs Watson had two daughters, the petitioner, now 74 years of age, and her sister Judith Fishwick who is 64, and lives in California. There are no other relevant family members.

4. Both the parents were in their nineties when they died, some five years apart. Mr Watson had not enjoyed good health in his last years, and was frail, requiring constant care, although seemingly of full capacity. His wife had dementia with psychotic episodes. She also required care, and whilst this was initially provided by the petitioner, Mrs Workman, it is apparent that the task was too great, eventually meaning that both had to be admitted to full-time care. Apparently, this took place at the same time, although it is not clear whether they shared the same residential placement. Within a few weeks of moving to a residential care home, Mr Watson died.

5. The petitioner's evidence is that this was a very difficult time for her, she was extremely upset having to continue to deal with her mother's deteriorating mental state, and her own mental

well-being, believing that she had let them both down by not caring for them in their own home. Further, Mrs Workman was under the impression following the funeral and coming into possession of the ashes that interment had to be arranged within a short period of time. There was a family grave available (734) where her maternal grandmother was interred, although it would seem that this had very little space available. Whilst there was no family connection between her father and her maternal grandmother, nevertheless she was able to manage the interment in that plot on what is described as the “periphery”.

6. Subsequently, and on reflection, the petitioner realised that she had made a rash decision, and purchased a new plot which she hoped could become a family grave. In the meantime she was dealing with her mother, who eventually died of Covid in 2020, and was cremated. I understand that the interment of her mother is yet to take place, whilst the ashes are retained, although it is intended that this should be in plot 1425.

7. The petitioner tells me in her statement that her parents were married for 70 years and it is her fervent wish that may be laid to rest in a plot together. There is simply not enough room in the previous family grave, and although that might be an appropriate interment for her mother (being her grandmother’s grave) and her parents would then be together, it would not be possible to achieve this because of lack of space, or to have a continuing family grave for further use.

8. In the circumstances, I must consider whether or not the criteria for an exhumation of the cremated remains of Mr Watson are satisfied, to enable the interment of his ashes with those of his more recently deceased wife in plot 1425.

9. The Registrar in his letter to Mrs Workman (7 April 2022) has carefully set out the principles which are applied in a consistory court which follow the two lead judgments of the Court of Arches and the Chancery Court of York, namely **re Blagdon Cemetery [2002] 4 All ER 482** and **Re Christchurch Alsager [1999] Fam 142**. A detailed elucidation for the purposes of this short judgment is unnecessary, but in brief outline this court will only grant a faculty for an exhumation in exceptional circumstances. A change of mind or a general desire that family members be buried together is usually insufficient, and a delay caused by the passage of time will make it less likely that such exhumation will be allowed, without very compelling reasons. This court is often faced with requests for the reinterment of mortal remains which are well-intentioned and borne out of a deep seated love and commitment to the family members who have passed away, and the desire to ensure peace of mind and the reuniting in death of those who have been together in life. The request is often made to fulfil the wishes of the deceased. However the importance of the permanence of Christian burial cannot be understated. The peaceful rest of the departed is to be of paramount importance. Further, a consistory court should not be swayed out

of the undoubted sympathy which is held for the family of those who have passed away and the additional grief which might be caused by the refusal of an application for exhumation.

10. Having set out that position as a matter of ecclesiastical law, I am also aware that across the broad range of reported cases involving applications for exhumation, there has emerged an acknowledgement that in these complex situations there are considerations which can carry greater weight and allow a more flexible approach. One particular feature is the creation of a family grave, as indeed was the justification in the **Blagdon** case, whether as an encouragement for the environmentally sensible use of burial land and or benefits which can be derived from family unity, and particularly where there have been strong family relationships. It is not uncommon that space can run out in established family graves which causes hardship and distress for those who subsequently lose loved ones. This was acknowledged in the case of **Astwood Cemetery (Gormley) [2016] ECC Wor 1** (Mynors Ch), where a faculty was granted in a not dissimilar situation to the present one, and where the spouses died within a few years of each other; there was insufficient space in the grave in which the husband's cremated remains had been interred.

11. In this diocese, my predecessor (Sir Mark Hedley (Ch) in the matter of **St Margaret's Orford (Cyril Jones (deceased)) [2016] ECC Liv 4** allowed an application for the exhumation and re-interment of the late husband's cremated remains in the family grave of his more recently deceased wife, where there had been problems of space and sufficiency for other family members. The delay in that case was significantly greater than in the present (25 years) although the Chancellor noted that an explanation had been provided that the widow had thought it inappropriate during her lifetime to make an application for exhumation, leaving it to her surviving children to create the family grave.

12. I am persuaded on the basis of the evidence in this case that the threshold for exceptional circumstances is satisfied. The delay is relatively short, being some five years, and the explanation provided by Mrs Workman is both convincing and understandable. Not only was she a principal carer for both of her parents until their placement in residential care, but also the effect of their passing and her own state of mind had clearly impacted upon the decisions which she had to make at the time. I accept unequivocally her belief that she was required to inter the ashes and not to retain them pending the creation of a new family grave, even if this was not correct. Her late father had no familial connection with her maternal grandmother, whereas the very long and obviously committed marriage over 70 years of her parents was a clear justification for their burial together. The proximity of the two plots whilst enabling anyone visiting to pay their respects to the deceased parents without inconvenience, would still raise the question as to why this couple were buried separately when there was a family grave, albeit one created subsequently when Mrs Workman was able to compose herself and think rationally following the death of her father.

13. Accordingly it is appropriate to grant a faculty for the exhumation of the cremated remains of Mr Watson, and the re-interment in the family plot at 1425. Whilst it is the intention of the petitioner that this will be the plot where other family members will eventually be interred, hopefully that will not occur for some years to come. The only condition of this faculty should be that the exhumation and re-interment should be carried out within six months.

14. In accordance with my usual and current practice there are no additional fees in relation to this judgment. It is assumed that the petitioner will have paid the fees relating to the lodgement of the petition.

**His Honour Judge Wood KC**  
**Chancellor of the Diocese of Liverpool**

4<sup>th</sup> October 2022