

IN THE CONSISTORY COURT OF THE DIOCESE OF ST EDMUNDSBURY AND
IPSWICH

In re Rougham, St Mary

JUDGMENT

1. This is a petition by Tracy McCloskey and Andrew Rose to exhume the ashes of their mother, Ann Gloria Rose, from the churchyard in Rougham to be re-interred in consecrated ground at Beyton Churchyard.
2. Mrs Rose's ashes were interred in August 2012. A decision was made at the time of her death by Mrs Rose's children to inter her ashes in her parents' grave in Rougham churchyard. Mrs Rose's siblings David Smith and Joy Reynolds were not told of this arrangement. This was for a variety of reasons including and especially that Mrs Rose had not spoken to her siblings for many years. It is alleged that at their sisters funeral Ms Reynolds and another relation caused a disturbance. Despite this history neither petitioner considered that there might be any objection to interring Mrs Rose with her parents. It is plain that both of her children were in a state of great distress after Mrs Rose's death.
3. Ms McCloskey explained that immediately after the interment flowers she had left on the grave were removed, stamped on and replaced with plastic flowers. A week after that incident the then Rector met with the petitioners to say that 'the

family' were 'furious' that Mrs Rose had been interred in her parents grave without informing them. The petitioners visited Mr Smith and Ms Reynolds to see if there could be an amicable solution, and to apologise for not informing them of their intentions to inter their sister with their parents. It is clear that the meeting was not successful and Mrs Rose's siblings became hostile. The only agreement reached was that the petitioners could place a vase of flowers next to the plaque marking the place where Mrs Rose's ashes had been interred. The petitioners claim that the vase had been 'kicked over' on every occasion that they visited to put flowers in. I make no finding of fact about that. There is no evidence that this was done by Ms Reynolds or Mr Smith or, indeed if the vase had simply fallen over or been blown over. Nevertheless, the fact that the petitioners felt that these actions were the deliberate and malicious behaviour of Mr Smith and Ms Reynolds identifies how high feelings were running. Ms McCloskey engaged the services of a grief counsellor who advised her to stop visiting her mother's grave.

4. The petitioners' Father, Mrs Rose's widower, died in May 2024. The incumbent received a call saying that Mr Rose's ashes should not be buried with his late wife and parents in law. I am going to deduce that this call was made by or on behalf of either Mr Smith or Ms Reynolds or both of them. I have no evidence that the grave space is reserved or, if it is, for whom it is reserved. Neither Mr Smith nor Ms Reynolds have provided any such information. Indeed they demand in at least two pieces of correspondence to be provided with 'a copy of the letter bearing our signatures that supposedly grants permission for the grave to be opened and the ashes of Ann Rose to be placed there'. As I have already noted they have provided no justification for Mrs Rose's ashes not to be interred and as such I have no evidence that they are in any position to decide who is to be interred where in the churchyard.

5. The solution proposed by the petitioners for this very unpleasant situation is to exhume Mrs Rose and inter her remains with the remains of her widower in a different graveyard.
6. Ms Reynolds and Mr Smith were written to informing them of the proposal. Whilst acknowledging that this was an 'emotionally challenging situation' for the petitioners they wanted to see the 'written permission' allowing Mrs Rose's ashes to be interred in the grave space. They claim this request 'came from a place of concern and the desire to resolve the situation in a way that honours both our parents and your mothers memory'.
7. Mr Rose and Ms McCloskey replied, in an eirenic and moving letter;

We arranged the internment the day after the funeral with the then vicar Nick Cutler and no-one mentioned consent being needed from any other family members. As you state it was a very difficult and upsetting time having lost someone so special to us, so it never crossed our minds that we might have needed consent. The specific reason for placing our mother's ashes in her parent's grave was as our mother had always been afraid of the dark so it brought us a little comfort to bury her with her parents and know she was not alone. We were at no time ever asked to get someone else's permission or consent for the burial to take place.

We are sorry that this has happened and that it has caused such upset. We have not taken the decision to request that our mother's ashes be exhumed lightly, but, our parents were devoted to each other in life, and we feel that we need to honour their wishes and reunite them in death.

Ms Reynolds and Mr Smith replied;

We do not consider Mrs. Rose's fear of the dark to be an exceptional circumstance justifying the reopening of a grave. Mrs. Rose's ashes were interred separately, and after her husband's death, the proposal to exhume her ashes and place them with him seems unnecessary. It stands to reason that Mr. Rose, being devoted to his wife, would have kept her ashes with him at home, especially given her fear of the dark. Upon his passing, it would have been more appropriate to inter their ashes together in the same grave.

The decision to open our parents' grave has caused considerable distress, not only to us but also to our entire family. The letter mentions that Mr. Rose and Mrs. McCloskey were unaware and had not been advised that consent was required. We strongly believe it would have been an act of common decency to consult us before proceeding with any action regarding the burial of Mrs. Rose's ashes alongside our parents

In a curious twist, having objected to Mrs Rose's ashes being interred in their parents grave, they appeared now to object to her ashes being exhumed.

8. The Registrar contacted Ms Reynolds and Mr Smith asking whether they did in fact wish to maintain their objection to the exhumation. They have withdrawn their objections.

9. I may only allow the exhumation of human remains from consecrated ground in 'exceptional circumstances' (*In re Blagdon Cemetery* [2002] 4 All ER 482). Each case turns on its own facts. I note now that there are no longer any objections to the exhumation, indeed the parish priest at Rougham supports the petition. The conclusion I come to from the list of authorities that have been issued by Consistory courts over the years where the 'exceptionality' test has been applied after the *Re Blagdon Cemetery* case is that a psychiatric or psychological condition linked to the location of the grave is such an exceptional feature. In this case Ms McCloskey has been advised by her grief counsellor not

to visit the grave due to the distressing behaviour that she has had to witness. If I allow this exhumation a family grave of two people who clearly loved each other can be created. To refuse the exhumation would be to deny the chance of a family grave.

10. This petition passes the seal.

10th March 2025

Justin Gau
Chancellor