

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

In re Uggeshall, St Mary

JUDGMENT

1. This is a petition by Christopher Sandilands, Gabriele Sandilands and Paul Sandilands to exhume James Sandilands' ashes from the Churchyard of St Mary, Uggeshall and to inter them in East Sheen cemetery. Gabriele Sandilands is James Sandilands widow, Paul his only brother and Christopher his only son. The petition is supported by all relevant members of the family. The incumbent (the Team Rector of the Sole Bay team ministry) also supports the petition. I was supplied with and have read a submission drafted jointly by the petitioners and letters from Charlotte Sandilands (Paul Sandilands' wife), Marietta Sandilands (Paul Sandilands' daughter), Freddie Sandilands (Paul Sandilands' son) and Lucy Sandilands (Christopher Sandilands' wife).
2. James Sandilands died suddenly of a heart attack at the age of 56 in 2001. He and his family lived in Fulham in London, as his widow still does today. He was not interred in a cemetery local to Fulham as, I am told, the local churchyard was 'full'. The family were assisted in their grief by Giles Crisp, Christopher

Sandilands' Godfather and a close friend to James. He apparently suggested that James' ashes be interred in Uggeshall Churchyard in an area between the church and Uggeshall House, Giles Crisp's home. The family agreed to this. The grave can be seen from Uggeshall House. Mr Crisp is a Churchwarden of St Mary's, Uggeshall.

3. The reason for the petition is that the Sandilands family have fallen out with Giles Crisp. The circumstances I am told are this. In 2022 Mr Crisp was driving a hired car near Salzburg. Paul Sandilands was a passenger in the car. Gabriele Sandilands and Charlotte Sandilands (the wife of Paul Sandilands) were driving in a car that was following the car that Mr Crisp was driving. The car that Mr Crisp was driving crashed. According to Paul Sandilands Mr Crisp admitted at the scene that he had fallen asleep. Paul Sandilands was admitted to hospital with minor injuries. Charlotte Sandilands was treated for shock. I am told that Mr Crisp has never 'acknowledged' the accident. When pressed to do so in correspondence with Christopher Sandilands Mr Crisp replied that his maxim in life is "*never complain, never explain*" and said that he would '*conclude his friendship with [the Sandilands], except of course that I shall continue to look after your father's grave stone and I remain very willing to help any of you especially your mother, who may wish to come and visit it.*'. The letter in support of the petition goes on to set out how Mr Crisp '*studiously avoided and ignored*' Christopher and Gabriele Sandilands at a small drinks party on an occasion after the correspondence above. The letter describes Mr Crisp's behaviour as '*hostile*' and '*deeply upsetting and traumatic*' and the fact that his kitchen window overlooks James Sandilands grave makes visiting the grave '*unthinkable*'. Charlotte Sandilands states that she feels unable to visit the grave as Mr Crisp has never apologised for or admitted responsibility for the crash. Marietta Sandilands claims that the family is '*unable*'

to visit the grave. Both Lucy and Freddy Sandilands talk of their family's distress at the circumstances.

4. Having read all the evidence submitted I asked the Registrar to approach Mr Crisp to respond and to invite the petitioners to consider their position and invite them to submit further evidence if they wished to. Mr Crisp stated that he had no objection or comment to make other than that, if the petition were to be granted, the site was to be made good at the family's expense. Christopher Sandilands replied with the following points, that I summarise;

- a. The desire for a family grave in London. He describes the grave in Uggeshall as 'tainted' and therefore inappropriate for a family grave.
- b. James had no connection to Uggeshall and he presumes that James would prefer to have been interred in London with his family when that time came, that his ashes were interred in Uggeshall only as a result of his unexpected death.
- c. The difficulty of travelling to Uggeshall. Included with the written submission was an excerpt from a letter written by Paul Sandilands;

'My wife Charlotte and I would greatly appreciate it if the grave could be moved to a much more accessible location. It is easy for us to get to London by train but Uggeshall is more difficult to get to, and involves a much longer journey from our home. I was close to my brother and, at 78 and recently having undergone treatment for cancer involving the removal of a kidney, I would particularly appreciate the move.'

The Law

5. In recent years there have been a large number of petitions considered by the Consistory Courts about the principles to be applied when considering an application for an exhumation. They have been based on, and underpinned by, the decision of the Court of Arches in *Re Blagdon Cemetery* [2003] 4 All ER 482 that concluded that a faculty for exhumation will only be granted in 'exceptional circumstances'. It is worth being reminded how the Court came to that conclusion. The Court was assisted by a note on the theology of burial written by the Right Reverend Christopher Hill. This note was expanded on and published in the Ecclesiastical Law Journal ((2004) 7 Ecc LJ 447). In that paper he wrote;

The permanent burial of the physical body/the burial of cremated remains should be seen as symbolic of our entrusting the person to God for resurrection. We are commending the person to God saying farewell to them (for their 'journey'), for entrusting them in peace for their ultimate destination, with us, in 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. The risen Lord in St John's Gospel says, enigmatically to Mary Magdalene: 'Do not hold/cling to me' (John 20v17). In general, therefore, the reluctance to agree to faculties for exhumation is well founded in Christian theology and eschatology. It is also right generally from the point of view of the mourner, who must learn to let go for their psychological and spiritual health.

...

In cases of Christian burial according to Anglican rites, prescinding from cases as to the faith of the deceased or other exceptional circumstances, I would argue that the intention of the rite is to say 'farewell' to the deceased for their 'journey'; to commend them to the mercy and love of God in Christ to await the transformation of the resurrection. Exhumation for sentiment, convenience, curiosity, or to 'hang on' to the remains of life would deny this Christian intention.

The role of the Consistory Court should be properly understood. Chancellor Hill KC in *Re St Michael and St Lawrence, Fewston* [2016] ECC Lee 7 reminded us that:

"The faculty jurisdiction is not some limpid simulacrum of the secular planning system, which it predates by many centuries. It is a vibrant functioning expression of the ecclesiology of the Church of England which helps to facilitate its mission and witness as the church of the nation. A key function of the consistory court is the maintenance of Christian doctrine. If there is to be a departure from the theology of the permanence of Christian burial, it should only be after careful consideration, which should invariably precede any disinterment".

6. Each decision of a Consistory Court must bear that in mind and apply the test of 'exceptionality' to the facts through that lens. In this case the petitioners say that it they 'cannot' visit the grave because of the behaviour of Mr Crisp. Such cases have been dealt with previously both in this court and other courts. Whilst they do not provide precedent, I give them appropriate weight.
7. I identify three reasons why the petitioners say that the exhumation is necessary:

- a. The rift with Mr Crisp
- b. The desire to create a family grave
- c. The inconvenience of the location of the grave for the surviving family.

The rift with Mr Crisp

8. The rift as described to me appears unpleasant, but no more than that. The petitioners describe Mr Crisp's refusal to acknowledge his fault for a car crash and his subsequent ending of friendship as 'hostile' and his behaviour in ignoring family members as 'upsetting' and 'deeply traumatic'. However, the only correspondence addressed to the petitioners that I have seen from Mr Crisp is in measured and even gracious terms offering assistance with visiting James' grave and undertaking to maintain it. In every life friendships end, sometimes explosively and violently, sometimes courteously but coldly. It strikes me that this falls squarely in the latter camp. In other cases of this kind where there has been a family rift and exhumation has been allowed the behaviour is altogether of a different kind e.g *In re St Mary Haseley [2009]* Coventry Consistory Court Chancellor Eyre described the behaviour as "a family at war" and noted with regret:

"[7]. ... A feature which reflects badly on the judgement and good sense of both sides in this dispute is that they have chosen to use the grave of [the deceased] as the battlefield on which to fight out that war".

In the case of *Re Landican Cemetery [2019]* ECC Chr 2* Chancellor Turner QC reviewed the relevant case law and commented;

“[61]. The Court of Arches in *Blagdon* set out a number of instances of matters (including, for example, where a ‘mistake’ has been made) which could be capable of amounting to special circumstances justifying exhumation.

[62]. It is also now fairly well established that in rare cases the fact that the presence of remains in a grave has become the cause of distress or conflict is capable of being an exceptional circumstance justifying exhumation (see, for example, *Re X* (2002) 6 Ecc LJ 413 Hamilton Ch.; *Re St Ann, Rainhill* (2004) 23CCCC 4 Hedley Ch; *Re St Mark, Worsley* (2007) 9Ecc LJ 147 Tattersall Ch.; *Re St Paul, Fazeley* [2016] ECC Lic 4 Eyre Ch.; *Re St Mary, Haseley* (2009) (unreported) Eyre Ch, and *Re the Cremated Remains of AA* [2018] ECC Lic 7 Eyre Ch..

[63]. At paragraph 13 of the latter, Eyre Ch. said: ‘Each case must be considered on its particular circumstances with the court remembering the force of the presumption of permanence and taking care not lightly to regard considerations of distress as being exceptional circumstances for these purposes.’”

In his discussion of the facts he noted:

[94.] Both parties are, I have concluded, highly vulnerable and have a number of unresolved psychological and grief-related issues which trouble them. Each needs to be well to cope with their existing responsibilities as spouses, parents and grandparents.

Having reviewed the evidence he concluded;

“[107]. The balance of factors leads me to conclude exhumation is unnecessary. Too much time has elapsed. The unreasonableness of any

misconduct here (on either side) is not, in this case, of an order which I conclude displaces the presumption of permanence in burial.”

In a very recent case in which I had to consider another petition for an exhumation, I granted the petition as the petitioner had been advised by a grief counsellor not to visit her mother’s grave (See *In re Rougham St Mary* [2025] ECC Eds & Ips 1). I have seen no evidence in this case which comes close to the facts of other cases where exhumation has been allowed. The petitioners claim they ‘cannot’ visit the grave. In my judgment the truth is that they ‘will not’ visit the grave.

The desire to create a family grave

9. The evidence sent to me is:

My mother has not had a new partner since James’s death in 2001 and would like to be buried with him when she passes. The memorial has been engraved that her name can be added. The current situation at Uggeshall leaves us with an unpleasant dilemma: joint burial for Gabriele and James in a ‘tainted’ location or peaceful individual burial in East Sheen.

We would welcome the opportunity to establish a family grave and East Sheen would be an available and appropriate location.

The issue is in fact the same as in the ‘rift’ argument above. They are two sides of the same coin. There is apparently the space for the creation of a family grave at Uggeshall, and I conclude that as the memorial has space for the engraving of

Jaemes' widows name to be added it was apparently the original intention that a family grave would be created at Uggeshall. The only barrier to the creation of a family grave is the argument above that I have rejected.

The difficulty of visiting the grave

10. I reject the argument that transport difficulties or declining health are sufficient to allow exhumation. The Court of Arches in *In re Blagdon Cemetery* (ante) made it clear at 36 (i):

If advancing years and deteriorating health, and change of place of residence due to this, were to be accepted as a reason for permitting exhumation then it would encourage applications on this basis.

As George QC Ch. pointed out in *Re South London Crematorium*:

'Most people change place of residence several times during their lives. If such petitions were regularly to be allowed, there would be a flood of similar applications, and the likelihood of some remains (and ashes) being the subject of multiple moves'.

Such a practice would make unacceptable inroads into the principle of permanence of Christian burial and needs to be firmly resisted. We agree with the Chancery Court of York that moving to a new area is not an adequate reason by itself for removing remains as well.

Any medical reasons relied upon by a petitioner would have to be very powerful indeed to create an exception to the norm of permanence, for example, serious psychiatric or psychological problems where medical

evidence demonstrates a link between that medical condition and the question of location of the grave of a deceased person to whom the petitioner had a special attachment.

11. Accordingly, I reject this petition. I know this will cause upset to the petitioners, but I hope that this might create the space for a much needed reconciliation.

14th March 2025

Justin Gau
Chancellor