

**IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD**

**ST MICHAEL & ALL ANGELS: ADBASTON**

**ON THE PETITION OF JENNIFER MAY MUDDIMER**

**RE: THE CREMATED REMAINS OF HENRY HANDLEY**

**JUDGMENT**

- 1) In February 1982 the cremated remains of Henry Handley were interred in the churchyard of St. Michael and All Angels, Adbaston. The Petitioner, Jennifer Muddimer, is the only child of Mr. Handley and she seeks a faculty authorising the exhumation of his remains and their re-interment in the plot in the same churchyard which now contains the body of her late mother and Mr. Handley's widow, Joyce Handley. Joyce Handley died in June 2018 aged 102 and her body was then interred in the churchyard.
- 2) The petition is supported by the incumbent and the Parochial Church Council of St. Michael's. The undertakers who carried out the original interment have confirmed that Mr. Handley's remains were interred in a lined oak casket and that they anticipate that in the sandy soil at the point of interment the casket is likely still be in a condition such that the exhumation could be carried out in a seemly manner.
- 3) The approach which I am to take in considering this petition was laid down by the Court of Arches in *Re Blagdon Cemetery* [2002] Fam 299. I have a discretion but the starting point in exercising that discretion is the presumption of the permanence of Christian burial. That presumption flows from the theological understanding that burial or the interment of cremated remains is to be seen as the act of committing the mortal remains of the departed into the hands of God. It must always be exceptional for exhumation to be allowed and the Consistory Court must determine whether there are special circumstances justifying the taking of that exceptional course in the particular case (the burden of establishing the existence of such circumstances being on the petitioner in the case under consideration).
- 4) At first sight and in the limited terms set out above the circumstances here would not be thought such as to justify exhumation. Mr. Handley's remains have been

interred for just over thirty-seven years. The decision to inter those remains was a deliberate one. That decision was followed by a subsequent deliberate decision as a result of which Mrs. Handley was buried in a different part of the churchyard when she died last year. That decision had been taken in accordance with Mrs. Handley's wish to be buried rather than cremated even though she knew that would mean that her remains could not be interred in the same plot as her late husband's.

- 5) The foregoing matters would not amount to a justification for exhumation. There are, however, circumstances connected with the cremation and interment of Mr. Handley which change the position. The winter of 1981/1982 was a very severe winter the effects of which were particularly acute in the area of the Shropshire/Staffordshire borders. Thus a temperature of  $-27^{\circ}\text{C}$  was recorded at Newport a matter of five miles or thereabouts from Adbaston. Mrs. Muddimer reports that there was up to 6' of snow on the ground which was frozen for many weeks. Faced with those conditions at the time of Mr. Handley's death his family consulted Rev Ernest Foster who was then the vicar of St. Michael's. Mr. Foster advised that the best way of effecting an interment within a reasonable period after Mr. Handley's death was for there to be a cremation rather than a burial because any interment of cremated remains would be in a smaller space and at a lesser depth than if there were to be a burial. This advice was taken and Mr. Handley's remains were cremated. Mr. Foster then identified a point adjacent to the sheltered west wall of the church tower at which the state of the ground permitted interment of the cremated remains and it was there that Mr. Handley's remains were interred.
- 6) In my judgement those matters are of significance. Mr. Handley's family acted properly in seeking to effect his interment expeditiously after his death. They consulted the incumbent of St. Michael's and acted in accordance with his advice. That advice was given in the particular circumstances of the severe weather conditions. I am satisfied that Mr. Handley's remains would not have been interred in the way or at the location they were but for those severe conditions which precluded burial elsewhere in the churchyard. Those severe conditions were exceptional circumstances relating to the nature and location of the interment.
- 7) During her life Mrs. Handley explained that she wished to be buried but that she hoped that her husband's remains could in due course be moved so that she and he could be in the same plot. In the particular circumstances Mrs. Handley is not

to be criticized for wishing her own remains to be buried nor is she to be criticized for not seeking exhumation of her husband's remains during her lifetime.

- 8) The circumstances in which Mr. Handley's remains were interred combine with the fact that the purpose of the proposed exhumation is to unite his remains with those of his widow elsewhere in the same churchyard to mean that this is an exceptional case in which exhumation can be justified.
- 9) Accordingly, I direct that the faculty sought be granted.

*STEPHEN EYRE*

HIS HONOUR JUDGE EYRE QC

CHANCELLOR

2<sup>nd</sup> June 2019