

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

TIXALL ROAD CEMETERY IN THE PARISH OF STAFFORD

ON THE PETITION OF MRS MAVIS BISHOP

RE: THE REMAINS OF JAMES ALFRED EGGINTON

JUDGMENT

- 1) Mrs. Mavis Iris Bishop petitions for a faculty authorising the exhumation of the remains of James Alfred Egginton from the Tixall Road Cemetery, where they are interred in land consecrated for burial by the Church of England.
- 2) James Egginton was the father of Mrs Bishop, an only child, and she petitions on her own behalf but also with special regard for her mother, Mrs Iris Egginton, the widow of James Egginton and now aged 95.
- 3) The circumstances of the petition are that James Egginton lived in Stafford for about 20 years before he died on Christmas Eve 2017. He was subsequently interred at Tixall Road Cemetery in a double grave, such that Mrs Egginton could be buried alongside him in due course. The funeral was conducted by Rev. Elaine Evans of St Bertelin's Church, where Mrs Egginton and Mrs Bishop were regular worshippers. The family, including Mrs Bishop, had no plans to move from the Stafford area at the time, but circumstances changed and they permanently relocated to Llanddona, Anglesey in May 2019. Mrs Bishop describes leaving the area as distressing, but with the consolation that the grave could be visited. The Covid-19 pandemic then intervened and visits were prohibited for lengthy periods of time, with the last visit being Christmas 2019. Further, Mrs Egginton is infirm and can no longer manage the journey. Mrs Bishop and her husband are in their 70s and may be similarly prevented from visiting in their later years.

- 4) Mrs Bishop has sought permission for re-interment at Llaniestyn from Llanddona Community Council, having been assisted by Rev. Canon Robert Townsend of St Nicholas' Church, Beaumaris, where the family now worships.

The Procedural History and Submitted Materials

- 5) I am satisfied that it is expedient for this petition to be determined on the basis of written representations. Mrs. Bishop consented to that course and has provided the details set out above.
- 6) I have been provided with an email from Mr Anthony Evans of Stafford Borough Council, the burial authority responsible for Tixall Road Cemetery, confirming its consent. I have also been provided with a copy email from Mr Geraint Parry, clerk to Llanddona Community Council confirming the Council's consent. There is confirmation of appointment of a suitable funeral director, Mr Arwel Hughes, properly prepared as directed by the Borough Council. There is accordingly no practical impediment to the proposals made by Mrs Bishop.

The Applicable Principles

- 7) The approach which I am required to take in considering this Petition was laid down by the Court of Arches in Re Blagdon Cemetery [2002] Fam 299.
- 8) 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 understanding that burial is to be seen as the act of committing the mortal remains of the departed into the hands of God as represented by His Holy Church.
- 9) 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 in question).
- 10) In *Blagdon* the Court of Arches identified matters which can be capable of being exceptional circumstances for these purposes but also those which are not capable of being such. For present purposes I have to note that the court made it

clear that the fact that visits to a grave are prevented by “advancing years and deteriorating health and change of place of residence due to this” is not something which can be an exceptional circumstance justifying exhumation (at paragraph 36(i)).

Conclusion

- 11) James Egginton remains have been buried at Tixall Road Cemetery for a few years only, but in a plot chosen with care to accommodate Mrs Egginton with him in due course. They both had been resident in Stafford for about 20 years or more, and the family had reasonably intended to live there for years to come.
- 12) I accept that the difficulty in making visits to the grave is a source of distress to Mrs Egginton, and it is possible (although by no means certain) that these problems will arise again with Mrs Bishop in her later years, but the cemetery remains a fitting resting place for James Egginton’s remains.
- 13) The circumstances here are, however, of a kind which the Court of Arches has clearly ruled are not, without more, capable of being exceptional such as to justify exhumation. In the light of that they are not to be seen as exceptional and cannot be grounds for exhumation.
- 14) The part played by the Covid-19 pandemic also cannot be relied upon, since this only interferes with visits during periods of “lock down”, which may be exceptional but are short-term and may hamper visits wherever a grave is located.
- 15) It follows that the petition must be dismissed.

Anthony Verduyn

Dr ANTHONY VERDUYN
DEPUTY CHANCELLOR

4th July 2021