

**IN THE CONSISTORY COURT OF THE DIOCESE OF DURHAM
IN THE MATTER OF BISHOPWEARMOUTH CEMETERY
AND ERIC RICHARDSON DECEASED**

JUDGMENT

1. Mrs Susan Richardson is the petitioner. She is the widow of Mr Eric Richardson, who died on 4 March 2018. His body was buried on 27 March 2018 in consecrated land at Bishopwearmouth Cemetery. Mrs Richardson has presented a petition dated 5 February 2020 for the exhumation of his remains so that he can be cremated at Sunderland Crematorium.
2. The petition states that Mr Richardson wished to be cremated, but Mrs Richardson decided to have his body buried so that she would have somewhere to visit him, and so that she could be buried with him in the same plot on her death.
3. The petition further states that after the burial Mrs Richardson contacted the funeral directors to say she had made a mistake not fulfilling her husband's wishes, albeit she did it with honourable intentions. She was advised by the funeral directors that it would be prudent to take some time to ensure that she was making the right decision. The petition does not state what she originally intended to do with her husband's remains after cremation.
4. Mrs Richardson submitted a letter dated 5 February 2020 in support of her petition in which she explains that she married Mr Richardson in December 1975. His adult children did not approve of the marriage, and all contact between Mr Richardson and his children came to an end. Mrs Richardson does not know where Mr Richardson's children are now.
5. Mrs Richardson discloses in her letter that she has myelofibrosis cancer, and that it is terminal. She now wishes to move away from Sunderland so that she can live and be with her son from her first marriage; he lives in Northamptonshire. There were no children from her marriage with Mr Richardson, and she has no family in Sunderland. If the faculty for exhumation and cremation is granted, Mrs Richardson now intends to take Mr Richardson's ashes with her to Northamptonshire where they would be interred with her own ashes at a later date.
6. The petition states that she would already have moved to Northamptonshire but for the fact that she cannot bear to leave her husband behind.

7. The petition does not explain, if a faculty were granted, where her husband's ashes would now be held until Mrs Richardson's own death. The Registrar sought clarification from the funeral directors, who replied in an email dated 27 February 2020 that Mrs Richardson intended to inter Mr Richardson's remains in consecrated ground in Northamptonshire once she had moved and settled there.
8. The principles to be applied are to be found in the case of *Re Blagdon Cemetery* [2002] Fam 299, a decision of the Court of Arches which, by virtue of s 14A of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, now falls to be treated as if it were a decision of the Chancery Court of York. I need not therefore consider the test set out by the Chancery Court of York in the earlier case of *Re Christ Church Alsager* [1999] Fam 142, or *Re Sam Tai* [2017] Fam 68 which was a decision of Bursell Ch in this Consistory Court based on the test in *Alsager*.
9. The Court of Arches in *Blagdon* held that the disturbance of remains which have been placed at rest in consecrated land can be allowed only in exceptional circumstances. There is a general presumption of permanence arising from the initial act of interment. The Court of Arches explained at paragraph 21 of its judgment: "*This presumption originates in the Christian theology of burial. This theology underlies the consecration of land especially for burials, and it is present in every funeral service and burial of a body or interment of cremated remains according to the rites of the Church of England.*"
10. The Court made it clear at paragraph 27 that "*permanence of burial is the norm in relation to consecrated land, so that remains are not to be regarded as 'portable' at a later date, because relatives move elsewhere and have difficulty in visiting the grave.*"
11. Whether the facts in a particular case warrant a finding that the case is to be treated as an exception is for the Chancellor to determine on the balance of probabilities, and it is for the petitioner to satisfy the Consistory Court that there are special circumstances in his/her case which justify the making of an exception from the norm that Christian burial is final.
12. The Court of Arches in *Blagdon* gave guidance at paragraph 36 as to when there might be exceptional circumstances such as to justify a departure from the norm of permanence. It rejected "*advancing years and deteriorating health, and change of place of residence due to this*" as a reason for permitting exhumation, and added that "*moving to a new area is not an adequate reason by itself for removing remains as well*".
13. The Court noted that "*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*".

14. The Court further held that “*a change of mind as to the place of burial on the part of relatives or others responsible in the first place for the interment should not be treated as an acceptable ground for authorising exhumation*”.
15. Mrs Richardson does not rely, either in her petition or in her letter of 5 February, on any ground relating to psychiatric or psychological problems associated with the location of Mr Richardson’s grave.
16. If a faculty were granted the remains of Mr Richardson would be exhumed, cremated and, once Mrs Richardson had moved and settled in Northamptonshire, interred at a place with which Mr Richardson appears to have had no connection during his life and which would be a considerable distance away from the current place of rest.
17. Mrs Richardson is having difficulty coming to terms with the death of her husband. It was a long marriage, and her grief is natural and not unexpected. Unfortunately for Mrs Richardson, however, the reasons she puts forward for wishing to exhume his body do not amount to exceptional circumstances within the meaning of *Blagdon* so as to justify a departure from the norm of permanence. I therefore dismiss the petition.
18. The petition was advertised at Bishopwearmouth Cemetery from 8 February to 7 March 2020. No objections were received. However, if I had considered there were grounds under which the petition could have succeeded, I would have required the petitioner to trace Mr Richardson’s children from his first marriage, so that special notice of the petition could be given to them, enabling them to make representations.

Adrian Iles
Chancellor

9 July 2020