

Re Quarrington Hill Churchyard

Durham Consistory Court: Bursell Ch, 11 April 2016

[2016] ECC Dur 1

Unlawful memorial

The petitioner sought a confirmatory faculty for a memorial to her late son which she had introduced into the churchyard. The memorial included a photograph of the deceased, a crest of Sunderland AFC and a depiction of a Sunderland AFC scarf in red and white around the exposed edges of the memorial. The petitioner had been given permission to introduce a memorial but the memorial she introduced differed from the description in her application to the incumbent, which had made no reference to the photograph, crest or scarf. She was subsequently advised by the archdeacon that if she wished to retain the memorial she would have to apply to the court, which she later did. The Diocesan Advisory Committee issued a notification of advice stating that it did not object to the memorial being approved by the court, subject to the proviso that the red and white painted edge (the scarf) be repainted black. The chancellor held that the petitioner had deliberately, and with full knowledge of the churchyard rules, introduced a memorial which was different from the one for which she had been granted permission by the incumbent. As the memorial had been introduced otherwise than in accordance with that authorisation it amounted to a trespass, as no-one had the right to introduce a memorial without permission granted by or on behalf of the chancellor. It was accordingly liable to be removed. The consistory court had always been concerned with the pastoral effect that any of its decisions might have but that concern embraced not only the instant petitioner but also all those who might be affected by its decisions. The chancellor referred to *Re Christ Church, Harwood* [2002] 1 WLR 2055, where Holden Ch said:

The rights and interests of private individuals, of the worshipping congregation, of all parishioners, of the local community, and of the Church and society at large all have to be considered in permitting a memorial . . . to be placed in a churchyard. There cannot be a *carte blanche* situation where a family of the deceased has sole right to decide what is, and what is not, appropriate . . .

The petitioner's flagrant disregard of the churchyard rules and the resulting trespass would be sufficient grounds for the chancellor to order the removal of the memorial forthwith. In the light of the pastoral situation, he was prepared to allow the memorial to remain on condition that the red and white scarf was obliterated and the portrait plaque removed by a specified date. In the event that the conditions were not fulfilled, the archdeacon was to remove the whole memorial, the cost of removal to be borne by the petitioner. [Alexander McGregor]