

CASE NOTES

EDITED BY RUTH ARLOW
Chancellor of the Diocese of Norwich

Re St Augustine, Tonge Moor

Manchester Consistory Court: Tattersall Ch, 1 May and 23 July 2012
Costs

In a judgment granting a faculty for the installation of, inter alia, two sets of railings in the churchyard, the chancellor observed that he had detected a degree of hostility between the petitioning incumbent and the objectors that was both unnecessary and unfortunate. He commented that the good will to be expected between Christian people who worship together had been conspicuously absent during his site visit to the church. The petitioners subsequently applied for an order that the objectors should pay the additional costs occasioned by their objections, suggesting that the objectors had behaved in a vexatious or unreasonable way. In refusing to make a costs order against the objectors, the chancellor noted that there had been many others who had objected to the proposed works, although they had not chosen to become formal objectors. He further noted that there had been no additional costs incurred as a result of the site visit at which he had detected the hostility between the parties. The chancellor stated that he was not prepared to conclude that the objectors had behaved unreasonably even though he had not accepted the submissions that they had made. [RA]

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Re St Mary, Mallerstang

Carlisle Consistory Court: Tattersall Ch, 7 May 2012
Church extension – lack of community support

The petitioners applied for a faculty for the construction of an annexe to the small Grade II listed church located in a small village. The annexe was to house a meeting room, toilet and kitchen facility and its size was more than three-quarters of the size of the church. During the course of the application it became clear to the chancellor that the proposed works did not have the

support of a substantial majority of the worshipping community or the wider parish community. Strong objections existed to the annexe as being disproportionate to both the church building and the needs of the community. Neither churchwarden supported the petition and nor did the PCC secretary or treasurer. The chancellor held that the prospect of such a substantial project succeeding was fatally blighted by the lack of congregational or community support. The petition was refused. [RA]

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Re C (A Child)

Romford County Court: HHJ Platt, 11 May 2012

[2012] EW Misc 15 (CC)

Baptism – Jewish child – parental dispute

C is the ten-year-old daughter of Jewish parents who divorced in 2010 and agreed that their two children should live with each alternately. Neither parent was observant and, though C's brother had been circumcised, they did not teach the children about Judaism. The father then converted to Christianity and, with the mother's agreement, took the children to church on alternate Sundays.

In 2011 C decided that she wished to be baptised. Her mother applied – without notice to the father – for a prohibited steps order forbidding him from baptising, confirming or dedicating either child into the Christian faith. HHJ Platt made an order that neither child was to be baptised or celebrate a *bar/bat mitzvah* without the consent of the other parent until further order or final hearing and ordered Cafcass to report on C's wishes and feelings in the matter.

The father accepted that the children were and always would be Jewish. However, he was adamant that it was the children who had decided to go to church. Equally, the mother accepted that the children had been brought up in a non-religious household; and though she alleged that this was because her ex-husband had prevented her from practising her religion she conceded that since their divorce she had made no attempt to introduce the children to Jewish teachings and practices beyond lighting the *Shabbat* candle on Friday nights. Both agreed that C was a very bright and mature girl who knows her own mind. HHJ Platt observed that in Jewish law a person who is born a Jew cannot deprive himself of his Jewish status and that Christian baptism does not have any effect on that status. He was satisfied that C understood the nature of baptism and concluded that her wishes and feelings were genuine and entitled to proper respect, that baptism would not affect her family relationships or prevent her from learning more about Judaism should she so wish and that no irrevocable consequences would flow from it. He