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[Newlywed Surviving Spouse of Infirm Elderly Husband Denied Elective Share](#)

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Every once in awhile a case comes along that is so egregious, that even where the law should compel a court to rule one way, the facts force a different result. The case of [Campbell v. Thomas](#) is one such example.

Here are the facts as recited by the Court:

Nidia well knew, Howard's dementia had advanced to the point that he often had difficulty recognizing family members, had lost the ability to understand his legal and financial affairs or even to attend to his own basic hygiene, and could not be left alone for any period of time. Nidia had also been informed that, due to the progression of his prostate cancer, Howard was not expected to live much longer. With knowledge of these facts, Nidia waited until Nancy, Howard's primary caretaker, left for a vacation, and then married Howard, without informing Nancy or any other member of Howard's family until after the fact.

The facts go on to recite that somehow, before his death, Nidia manipulated Howard's finances and somehow became the sole beneficiary on Howard's retirement account.

Five years after Howard's death, the marriage was declared to be "null and void" on the ground that Howard was "incapable of consenting to a marriage for want of understanding."

In New York, a spouse has a [right of election](#) which entitles a surviving spouse to portion of the decedent's estate. The purpose of this provision is to prevent one spouse from dis-inheriting the other.

In this case, Nidia sought to collect her elective share of Howard's estate.

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Though the Court found that technically Nidia had a right to an elective share as a “surviving spouse”- it applied the age old principle that no one shall be permitted to profit by his own fraud, or to take advantage of his own wrong” and denied Nidia her right to her elective share.

While the Court was clearly offended by Nidia’s conduct, its ruling was also motivated by the need to protect the elderly and infirm from overreaching and undue influence. The Court made it clear that even in absence of statutory prohibitions, it will not condone marriages to the elderly and those lacking capacity motivated by a desire to cheat them or their estates.