



Wife Who Killed Her Husband Can Inherit His Estate

In 2010, Sally Challen received a life sentence for murdering her husband, Richard Challen with a hammer.

Mr Challen died without leaving a will (known as dying intestate), which meant that the [Intestacy Rules](#) would dictate how his estate would be administered. Under these Rules, Mrs Challen would usually inherit a large portion of Mr Challen's estate.

The 'forfeiture rule'

However, there is a rule, known as 'forfeiture rule', which provides that someone cannot inherit from the estate of someone whom they have unlawfully killed.

For example, in the case of the serial killer, Dr Harold Shipman, whose crimes were discovered following the death of one of his victims, Kathleen Grundy in 1998. Mrs Grundy's daughter, a solicitor, queried her mother's will, which left her estate to Dr Shipman and was prepared on his typewriter. This prompted a police investigation into Dr Shipman, who was later found to have murdered Mrs Grundy and many others. Although, Mrs Grundy's will may have been forged, Dr Shipman would also have been prevented from inheriting from her estate, as he had unlawfully killed her.

Appeal

Mrs Challen later appealed against her sentence in the Court of Appeal. The case was widely reported because Mrs Challen had been subjected to controlling behaviour by Mr Challen and had killed him after suffering years of abuse. Her murder conviction was quashed and the Court of Appeal ordered that there be a retrial, because new evidence which was not available at the time of Mrs Challen's original trial should be considered.

Although, Mrs Challen admitted killing Mr Challen, she claimed diminished responsibility because of the abuse which she was subjected to. She pleaded guilty to manslaughter and received a new sentence of 9 years and 4 months. Mrs Challen was released because of the time which she had already served in prison.

However, this still meant that Mrs Challen would not have been able to inherit from Mr Challen's estate.

Waiving the forfeiture rule

Under the Forfeiture Act 1982, the court has the discretion to waive the 'forfeiture rule' in certain circumstances, where it considers that it would be unfair or unjust to deprive someone of their inheritance. Mrs Challen applied to the High Court for such discretion to be used in *Challen v Challen* [2020] EWHC 1330 (Ch).

Judge Paul Matthews stated that; *"The deceased's behaviour during their relationship and their marriage was by turns contemptuous, belittling, aggressive or violent. His response to any suggestion that she would divorce him was that he would limit access to their children"*. The Court therefore waived the 'forfeiture rule' and allowed Mrs Challen to inherit from Mr Challen's estate.

However, Judge Matthews added that every case has to be decided on its own merits, so not every victim of coercive control would necessarily be able to inherit in a case when they had killed their partner. He stated that *"...the facts of this terrible case are so extraordinary, with such fatal combination of conditions and events, that I would not expect them to be easily replicated in any other"*.

Is the ruling in *Challen v Challen* unique?

There are other cases where the 'forfeiture rule' has been waived, but these were also decided on their specific facts.

In *Macmillan Cancer Support v Hayes & Long* [2017], an 84 year old man, Peter Thomson, killed his wife, Sheila Thompson and then took his own life. Mr Thompson has received a cancer diagnosis and Mrs Thompson had advanced dementia and she had moved into a care home.

Mr and Mrs Thompson made similar wills, leaving their estates to each other and, in the event that both died, to charities and friends.

Under the 'forfeiture rule', Mr Thompson would not be allowed to inherit from Mrs Thompson's estate. This would mean that, as the couple had no children, distant relatives may have inherited their estate, rather than the charities and friends.

Although, Mrs Thompson's death was unlawful, Mr Thompson was not convicted because of his own death. An application was made to the High Court to grant the late Mr Thomson relief from the 'forfeiture rule' in respect of Mrs Thompson's estate.

The High Court held that relief from forfeiture should be granted. It considered the facts of the case, for example, the devoted couple's long and happy marriage and the fact that Mr Thomson had apparently believed that he was acting in Mrs Thompson's best interests.

It is therefore clear that the court will take into account the facts of each case and, if there are exceptional circumstances, it may permit someone who has unlawfully killed another person to inherit from their estate.

Our [Disputed Wills Team](#) can provide specialist advice on the 'forfeiture rule' and will validity. Contact us by calling 01202 786161 or emailing online.enquiries@la-law.com.