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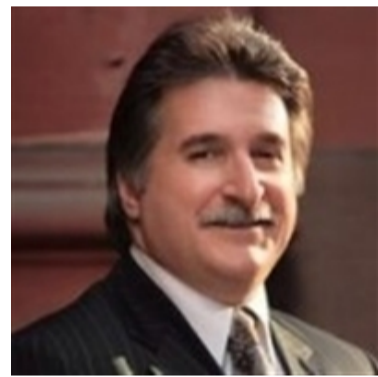
MICHAEL H.G. FORD MD FRCS(C)
 416-480-6775 ORTHOPAEDIC SPINE
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Estates & Wills & Trusts

Supreme Court will not hear case of a will called racist by spurned heir



THE CANADIAN PRESS



OTTAWA – The Supreme Court of Canada (SCC) will not hear an appeal from a woman who claimed she was disinherited in her father's will because she had a child with a white man.

Rector Emanuel Spence, who was born in Jamaica, died in 2013 at age 71, leaving behind two adult daughters from a previous relationship.

The eldest, Verolin Spence, challenged his will as against public policy after finding that he had specifically excluded her and her son.

A lower court agreed, saying the will was based on racist principle and offended public policy, although the document said the woman was left out because she had not communicated with Spence for several years.

The Ontario Court of Appeal overturned the ruling, saying a desire to prevent discrimination does not allow the court to challenge the validity of an unambiguous will based on third-party allegations of racism.

In an interview with [AdvocateDaily.com](#), Toronto-area estate litigator [Charles Ticker](#) says, "This ruling by the SCC reaffirms that our courts consider testamentary freedom to be paramount when dealing with private family bequests."

Ticker, who did not act in this matter but has been following the legal saga closely, says it will be up to the government to pass legislation to deal with these matters.

"The result may have been different in British Columbia where they have legislation giving judges more power to rewrite wills based on moral considerations," he adds.

As usual, the Supreme Court gave no reasons for refusing to hear the case.

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