

Widow of NM Police Officer Is Denied Workers' Comp Death Benefits

On behalf of Johnston, Moore & Thompson

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In August 2002, a 12-year-old boy was swimming in the upper Rio Grande river in New Mexico during a church event when he suddenly slipped below the surface of the water. Kevin Schultz, an off-duty officer from the nearby town of Pojoaque Pueblo, sprang into action and saved the boy from drowning.

Sadly, Officer Schultz did not survive.

Schultz was the kind of officer who always carried his service revolver, badge and radio with him, just in case of emergency. After his tragic death, he was awarded the U.S. Coast Guard's Silver Lifesaving Medal and a Medal of Valor from Pojoaque Pueblo. Both citations praised Schultz for bravery beyond the call of duty.

"Your husband, Kevin Schultz, died in the line of duty," said Pojoaque lieutenant governor George Rivera (now governor) in 2003.

The New Mexico Department of Public Safety concluded that Schultz had been killed in the line of duty. The Justice Department approved his family for benefits, acknowledging that he was killed in the line of duty. He is listed on memorial walls in both Santa Fe and Washington, D.C., which commemorate officers killed in the line of duty.

Unfortunately, the [workers' compensation](#) system says the fatal accident did not occur during the course of Schultz's employment, and they denied his widow's claim for workers' comp death benefits.

Eight years after her husband's death Schultz, who is now subsisting on Social Security disability, is still fighting for those benefits and a recent New Mexico Supreme Court ruling may make it possible for her to win.

Why Would a Hero's Widow Be Denied Workers' Compensation Death Benefits?

According to a recent story in the Albuquerque Journal, Pojoaque Police Chief John Garcia, along with the Pueblo's workers' comp insurer New Mexico Mutual Casualty Co. and a New Mexico workers' compensation judge were not convinced Officer Schultz's death occurred during the course of his employment.

Cheryl Schultz appealed, but her notice of appeal arrived two days after the deadline due to a mail delay. The New Mexico Court of Appeals dismissed her case.

This summer, the New Mexico Supreme Court ruled that the delay was beyond Cheryl Schultz's control so the case should not have been dismissed. It told the Court of Appeals to reopen the appeal.

Cheryl Schultz is seeking \$307,755 in denied [workers' compensation benefits](#) for her husband's death. She gets by on disability payments from a back injury and college financial aid.

It will likely be months before her appeal is heard.

Source:

["A Hero's Widow Is Forced to Wait for Benefits"](#) (LawyersandSettlements.com, September 21, 2010)