

# Responding to the call of duty: Win for a widow

Joline Gutierrez Krueger /Journal

Eleven years almost to the day since Pojoaque Pueblo police officer Kevin Schultz lost his life saving a drowning child, after three appeals and two hearings before the state Supreme Court, after days of doubt,

nights of frustration and far too many tears, Cheryl Schultz's long court fight to obtain her husband's workers' compensation benefits came to an end last week.

She won.

After hearing the news from her attorney Tuesday, she posted a story about the favorable Court of Appeals opinion on Facebook and wrote simply: "It's over."

But there was nothing simple about what Cheryl Schultz and her attorney, George Weeth, had been through.

"There were a couple of situations there when I was just done, I can't do this anymore," Schultz said. "It was exhausting."

Weeth, too, admits a couple of times he thought about quitting.

They didn't.

And it's a good thing. What they fought for will almost certainly benefit other families of fallen and wounded law enforcement officers both in New Mexico and elsewhere, because the Court of Appeals opinion practically shouts what many of us have felt all along: that an officer is not off the clock when he or she is needed to protect and to serve.

That had been at the crux of the biggest legal battle Cheryl Schultz had waged - though there were certainly others she faced since her husband's death Aug. 17, 2002. On that sunny Sunday, she and her husband were chaperons for a church outing on the upper Rio Grande near Pilar when a 12-year-old boy fell into the swirling waters.



**Kevin Schultz, a Pojoaque Pueblo police officer, and his wife, Cheryl Schultz, before he died Aug. 17, 2002. His wife has fought for workers' compensation benefits for him and other law enforcement officers killed in the line of duty, whether on or off the clock. (Courtesy of Cheryl Schultz)**

Kevin Schultz, packing his service revolver, his badge and his pager as he did even on his days off, did not hesitate. He jumped in to save the boy, heaving the unconscious child onto the shore but unable to save himself . He was 44.

For his heroism, he received a number of posthumous honors, including the U.S. Coast Guard's Silver Lifesaving Medal and the Medal of Valor from Pojoaque Pueblo. His name was engraved on both the New Mexico Department of Public Safety's memorial wall in Santa Fe and the National Law Enforcement Officers Memorial in Washington, D.C.

All those awards, all those officials - including Pojoaque Gov. George Rivera, then the pueblo's lieutenant governor - praised Kevin Schultz for his selfless act in the line of duty.

But when it came to workers' compensation benefits, well, no, suddenly his death did not "arise out of and in the course of" his job. Suddenly, Pojoaque Police Chief John Garcia (who, according to testimony, promised to file for the benefits but didn't), Workers' Compensation Judge Helen Stirling and New Mexico Mutual Casualty Co. were not convinced that Kevin Schultz's last heroic deed was "within the course and scope of his employment."

He was off-duty, they argued. He was outside his jurisdiction, not in uniform and hadn't even been trained to conduct a swift-water rescue.

All these years later, the Court of Appeals told them they were wrong.

"If it is our expectation as a society that police officers put themselves in harm's way, sometimes irrespective of their on-duty status, then it should also be our expectation that such officers be compensated when they are injured in the course of doing so," wrote New Mexico Court of Appeals Judge Cynthia Fry.

Weeth said the court's opinion is the first he is aware of in the country to broadly declare that officers who respond to an emergency while they are off duty should be treated as if they were on duty.

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Concerns of Police Survivors [www.NationalCOPS.org](http://www.NationalCOPS.org)

"Had Kevin checked a manual or called for backup or simply said, 'I'm off duty,' that child would not be alive today," he said.

Richard Shane, attorney for the Pojoaque police and New Mexico Mutual Insurance Co., declined to comment, saying he had not had time to digest the 26-page opinion and had not conferred with his clients.

Pojoaque Pueblo issued this statement: "Gov. Rivera has consistently supported the efforts of Cheryl to pursue workers' compensation benefits on behalf of her late

husband. The pueblo's insurance carrier has handled the claim and proceeded in accordance with our policy provisions. We are looking now at the court's decision. Kevin's death greatly impacted the pueblo, most importantly the officers who served with him, and we believe his efforts to save a young boy from drowning were nothing short of heroic."

Garcia is no longer police chief .

I've been writing about Cheryl Schultz's battle since 2010, and each time she has made it clear that her fight was not about money (she stands to receive an estimated \$307,755, which will come in handy for a single mom with a son, Kaegan, now 19 and at the University of New Mexico).

"I wanted something that would help other families," said Schultz, now the Western regional trustee for Concerns of Police Survivors. "But I also wanted people to know that Kevin did not make a wrong choice by deciding to save somebody's life."

A couple of years ago, Schultz was offered what her attorney calls "real money" to quietly settle the case.

"All the pressure was on her to take the easy route, take some money," Weeth said. "But she had a bigger goal."

No one would have faulted her had she taken the money and run - except her.

"I had to do what could let me sleep at night," she said. "Taking that money wasn't right. Quitting wasn't right. The only option was to go forward, and that's what I did."

Which is to say that in the Schultz family, there are two heroes.

*UpFront is a daily front-page news and opinion column.  
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