

Court: NM Officer's Widow Entitled to Benefits

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By BARRY MASSEY Associated Press



A New Mexico court has ruled that the widow of an off-duty tribal police officer who died more than a decade ago while rescuing a boy is entitled to workers' compensation benefits.

The decision by the state Court of Appeals was welcomed Tuesday by a lawyer for Cheryl Schultz, who has waged a long legal battle after a workers' compensation judge in 2007 rejected her claim for benefits involving the death of her husband, Kevin, a Pojoaque Pueblo police officer.

Kevin Schultz was fishing with a group of children from his church when a 12-year-old boy fell into the Rio Grande. After pulling the boy from the river, Schultz collapsed in shallow water and drowned. Schultz was a chaperone on the trip near the small community of Pilar, which is outside the boundaries of Pojoaque Pueblo lands.

Schultz may have hit his head on a rock and the injury could have incapacitated him, according to a medical examiner.

In a ruling issued Monday, the Court of Appeals overturned a decision by the workers' compensation judge that Cheryl Schultz wasn't entitled to benefits because her husband wasn't performing the duties of his job when he died.

The court said benefits will be provided for off-duty law enforcement officers injured or killed in emergency situations "reasonably calling for police officer assistance."

"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," the court said in an opinion written by Judge Cynthia Fry.

George Weeth, a lawyer for Cheryl Schultz, said the decision expanded the state's legal framework for providing workers' compensation benefits for off-duty police.

"That is the policy that poor Cheryl has been trying to establish for 10 years now," Weeth said. "It's been a long road to get here."

He estimated that the widow and her son may be entitled to death benefits of about \$300,000, but said the final amount will be determined later by a worker's compensation judge. The family is entitled to payments for funeral expenses up to \$7,500 and some medical costs.

The case has been the subject of several appellate court rulings since the workers' compensation judge initially ruled that the widow's claim was filed too late and her husband's death didn't happen in the course of his employment.

The state Supreme Court twice revived the case after the Court of Appeals ruled against Cheryl Schultz.

Earlier this year, the Supreme Court said that delays in the filing of the workers' compensation claim were caused by Kevin Schultz's employer and the justices ordered the appeals court to resolve the question of whether the officer's death occurred during his law enforcement duties.