



And The Defense Wins

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DRI member [David MacMain](#) of **Lamb McErlane PC** of West Chester, Pennsylvania, recently obtained defense verdicts in two police excessive force trials, both in the U.S. District Court for the Middle District of Pennsylvania in Harrisburg. In *Schultz v. Borough of Carlisle*, he represented the Carlisle Police Department and two police officers. The officers were accused of using excessive force and mistreating a disabled man, and the Carlisle Police Department was cited for allegedly failing to train the officers properly in the use of force and in failing to use proper treatment when dealing with persons with special needs.

The incident arose from a 911 call in which the caller reported that Schultz was creating a disturbance in a local McDonald's. Officers arrived and found Schultz uncooperative and in some type of medical distress. After trying to reason with Schultz and determine the problem, the officers attempted to convince Schultz to get on a waiting gurney, but Schultz refused and attempted to leave the restaurant. The officers restrained Schultz, who, in turn, tried to push the officers away. Over the next two minutes, a violent struggle ensued, during which the officers used blows and six deployments of their Tasers. The trial judge denied summary judgment, commenting that, in his view, the force seemed excessive, but he would leave it to a jury to decide. After four days of trial, the jury returned a verdict in just over one hour, finding in favor of the officers and police department.

Less than a month later, Mr. MacMain was back in court, trying the case of *Dumas v. City of Lebanon*. In that case, a Lebanon police officer was accused of excessive force for, among other things, his use of a Taser on Mr. Dumas during the course of an arrest. After a two-day trial and just over 30 minutes of deliberations, the jury returned a verdict in favor of the officer.

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