



DEPARTMENT OF THE ARMY
HEADQUARTERS, 42d INFANTRY DIVISION (Mechanized)
OPERATION IRAQI FREEDOM (FOB LIBERTY)
APO AE 09308

DHFT-JA

15 September 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA3-1751

- 1. Identifying Data:** [REDACTED], Tikrit, Iraq
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 16 August 2005, in Tikrit, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 3 September 2005.
- 4. Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was filed in a timely manner.
- 5. Facts:** Claimant alleges that his son was wrongfully killed by U.S. Forces. The claimant's son was riding in a vehicle driven by his brother in Tikrit. The claimant's sons attempted to cross the Al Alam bridge, but were stopped by the Iraqi police, because the bridge was temporarily closed. As they were stopped a U.S. Forces soldier allegedly jumped up from behind a barrier and shot at them for no reason. The soldier allegedly fired many shots from a short distance. The soldier was allegedly to the front left of the vehicle. No help arrived for twenty minutes, so the claimant's son died. The claimant provided two corroborating witness statements and photographs. One of the witness statements was from a second brother, who was at work and coincidentally happened out of his store to look around and witnesses the entire wrongful killing. The photographs of the vehicle show one bullet hole through the passenger side of the windshield, not many holes. Where the bullet hole is located is not consistent with being shot from the left front of the vehicle. The shooter must have been directly in front of the vehicle. There is no report of this incident in division records.
- 6. Opinion:** There is insufficient evidence to indicate that U.S. Forces killed the claimant's son.
- 7. Recommendation:** The claim is denied.

[REDACTED]
[REDACTED]
[REDACTED]
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Claims Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED] (Father)

POA/ATT:

Power of Attorney provided and interpreter approved.

Decedents:

Hometown: Tikrit

Irqi Resident: [REDACTED]

My claim arose at:

(Town)

(City)

(Country)

My claim arose on:

Month

Day

Year

Proof of Ownership:

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): Same Name, bullets, 16 Aug 05, DOB 1977

Interpreter Approved:

Legal Expert Opinion:

Interpreter Approved:

Witness Statement (Consistent?):

Interpreter Approved:

Give a brief statement of the accident or incident on which the claim for damages to property or for personal injury is based. (Use back of this sheet if necessary.)

W. driving his car w/ defendant in passenger seat. Went to cross Al Alaa Bridge [REDACTED] Tikrit. IP told W. bridge closed. W. went to U-turn, US soldier [REDACTED] pops up from concrete and shoots at vehicle many times. Defendant died immediately - but died 20 min's later and NOONE came for help.

Evidence:

Photos

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List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

Item Amount

Wrongful Death \$5000
Total: \$5000

I was insured to the following extent against the damage or injuries I have sustained:

The name and address of my insurer (if any) is:

(Name) (Address)

I claim as damages: (Indicate amount in U.S. dollars and local currency)

local

(Signature of Claimant)

Subscribed before me this 3 day of April, 200

(Print Name)

(Signature)

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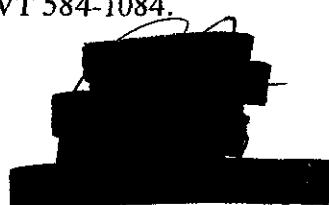
MEMORANDUM FOR Claimant

SUBJECT: Claim Denial

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1. This is in response to your claim against the United States Government. Your claim has been reviewed under the Foreign Claims Act, 10 U.S.C. 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.
2. Your claim has been denied for the following reasons:
 - a. There is not enough evidence to prove your claim.
 - b. The evidence shows that United States Forces did not cause the damage.
 - c. The evidence shows that the damage was caused during combat.
 - d. The evidence shows that the damage was caused by your own negligence or wrongdoing.
 - e. The evidence shows that your claim was fraudulent.
 - f. Other: _____
3. If this is the first time your claim has been viewed by this office, you may submit an appeal. This office must receive the appeal no later than 30 days after receipt of this message. The appeal must also contain additional evidence proving your claim. If the appeal is sent after 30 days has passed, or does not provide additional evidence, then the appeal will be denied.
4. POC is the Tikrit Claims Office at DNVT 584-1084.



CPT, JA
Foreign Claims Commissioner

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