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18 Feb 06

DEPARTMENT OF THE ARMY
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
TASK FORCE BAND OF BROTHERS
FORWARD OPERATING BASE SPEICHER
APO AE 09393

AFZB-JA-C

MEMORANDUM FOR Claimant

SUBJECT: Claim Denial

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 101st Airborne Division (Air Assault) Claims Office at DSN 318-845-1022.

[REDACTED]
CPT, FCC
Foreign Claims Commissioner

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DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

11 February 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IR8-244

1. **Identifying Data:** [REDACTED] filed by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim allegedly occurred on 7 November 2005 in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,417 on 11 February 2006.
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 properly filed in a timely manner.
5. **Facts:** The Claimant alleges that his son was killed when he was driving near a CF checkpoint. The decedent is [REDACTED]. A SIGACTS investigation confirmed the identity of the decedent and states that TF 2-7 was conducting a cordon and search operation when a LN vehicle approached the cordon line at an excessive rate of speed. The soldiers tried to stop the vehicle using flashing lights and hand and arm signals. A warning shot was fired with no effect. Two rounds were fired at the driver as a last resort.
6. **Opinion:** "Under AR 27-20, paragraph 10-3, Claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. AR 27-20 defines combat activities as, "Activities resulting directly or indirectly from action by the enemy, or by the U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict." Here, the deceased was killed as a result of an escalation of force. Escalation of force constitutes combat because the actions were taken in self defense and immediate preparation for combat.
7. **Recommendation:** The claim is denied.



CPT, JA
Claims Judge Advocate

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: *original seen.*

Decedents: [REDACTED]

Hometown: *Tikrit*

Iraqi Resident: _____

My claim arose at: *Tikrit*

(Town)

(City)

(Country)

My claim arose on: *11 / 7 / 2005*

Month

Day

Year

Proof of Ownership: *original POO*

VIN Match: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): *original seen*

COO - bullet; DOB 2 NOV 2005; Tikrit

Interpreter Approved: _____

Medical Report/Legal Expert Opinion: _____

Interpreter Approved: _____

① Police officer - same story

Witness Statement (Consistent?): _____

Interpreter Approved: *② Shop Keeper - eyewitness - same story*

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.)

D driving to checkpoint. D pulled over

7:00 pm. but Humvees fired at D. D killed

before CF could take him to the hospital

CS son was killed

*10 m from D's car & checkpoint
dead guy owns the car.*

Toyota Camry

Evidence: *photos, death cert., Police & Judicial docs*

Car & Fin.

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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	\$2,500
Damage to car	2,800,000 ID (1917)

Total: 4417

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

N/A

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)
\$ 2,500 local 2,800,000 (#1917)

(Signature of Claimant)

Subscribed before me this 11 day of Feb, 2000.

(Signature)

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