

20 Dec 05
Q-1A3-193



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE, 3D INFANTRY DIVISION (FORWARD)
TASK FORCE LIBERTY, OPERATION IRAQI FREEDOM
FORWARD OPERATING BASE SPEICHER
APO AE 09393

DHFT-JA

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 Tikrit Claims Office at DNVT 584-1084.

[REDACTED]
CPT, FCC
Foreign Claims Commissioner

001202



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

AFZB-JA-C

10 December 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IA3-193

1. **Identifying Data:** [REDACTED] by POA [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on August 8, 2005 in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,000 on 6 Dec. 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 properly filed in a timely manner.
5. **Facts:** The Claimant alleges that a CF convoy fired at his vehicle when driving from Tikrit to Bayji. The CF convoy allegedly approached from behind and fired at the vehicle. Claimant's son was killed when he was struck in the back of the hit. A SIGACTS investigation revealed no incidents meeting the claimant's description of events for the relevant time period.
6. **Opinion:** There is insufficient evidence of negligent or wrongful acts attributable to CF. Even if this incident had been documented in SIGACTS, the claim is non compensable because it is incident to a combat activity. 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."
7. **Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
Claims Judge Advocate

601203

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: *Savan Sadah Rashid*

Power of Attorney provided and interpreter approved: *Shawn Original / kopt copy*

Decedents: [REDACTED]

Hometown: _____

Iraqi Resident: _____

My claim arose at: _____

(Town) *Tikrit*

(City) *T*

(Country) *Iraq*

My claim arose on: *Aug*

Month

Day

Year *2005*

Proof of Ownership: *NA*

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): *Savan Original (Copy in file) (08-0001) Gunshot Wounds to back of head*

Interpreter Approved: *Medical*

Legal Expert Opinion: *Decedent died from blood loss from SAF to head.*

Interpreter Approved: *Yes*

Witness Statement (Consistent?): *W1 - Driver (Brother) - CF approached from behind and shot at car*
W2 - Passenger (Sister) - consistent round hit brother in back of

Interpreter Approved: *Yes*

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.)

Wrongful Death

passenger in a attack
Claimants son was driving from Tikrit to Bayji. CF
approached from behind. Decedent pulled over to side of
road into parking area. CF began firing SAF into vehicle.
Decedent was hit in back of head and CF did not stop to
check on vehicle. Round supposedly hit decedent in back
of head.

Evidence: *Witness Statements*

001204

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

Total:

\$4000

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

22

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)

\$ 4000

local

(Signature of Claimant)

Subscribed before me this 6 day of Dec, 2005.

(Signature)

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