



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 3<sup>RD</sup> BRIGADE COMBAT TEAM  
OPERATION IRAQI FREEDOM, COB SPEICHER  
TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

18 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]  
[REDACTED] (Claim Number 06-IR8-239)

1. On 12 April 2005, [REDACTED] 's mother was killed by a CF convoy engaged in SAF as it approached a traffic jam and attempted to clear a pathway.
2. I certify that CERP funds are available to pay [REDACTED] [REDACTED] in the amount of \$2500.00. This is a condolence payment.
3. The request to pay [REDACTED] [REDACTED] in the amount of \$2500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]  
[REDACTED]  
CPT, EN  
Project Purchasing Officer

001296



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

15 February 2006

MEMORANDUM OF OPINION

SUBJECT: Appeal of Claim of [REDACTED], 06-IA3-239

1. Identifying Data: [REDACTED]

2. Date and place the incident occurred giving rise to the claim: The claim occurred on April 12, 2005 in Samarra, Iraq.

3. Amount of claim and date it was filed: Claimant filed a claim for \$3,000 on 3 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 his mother was killed by CF in the Al-Jabori neighborhood of Samarra. CF allegedly shot the decedent in the front of her home when the CF convoy was confronted with a traffic jam. CF allegedly starting shooting cars to clear a path through the traffic. The incident allegedly occurred around 10:30 in the morning. A SIGACTS investigation revealed a TF 1-26 patrol was engaged with small arms fire in southern Samarra.

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 most likely killed during an engagement between CF and AIF.

7. Recommendation: The claim is denied.

[REDACTED]  
CPT, JA  
Claims Judge Advocate  
3R

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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

Total: \$3,000

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

W/P

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

(Address)

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

\$ 3,000

local

(Signature of Claimant)

Subscribed before me this 19 day of Dec., 2005.

1200000000

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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

21 December 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IA3-239

1. **Identifying Data:** [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on April 12, 2005 in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$3,000 on 3 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 his mother was killed by CF in the Al-Jabori neighborhood of Samarra. CF allegedly shot the decedent in the front of her home when the CF convoy was confronted with a traffic jam. CF allegedly starting shooting cars to clear a path through the traffic. The incident allegedly occurred around 10:30 in the morning. A SIGACTS investigation revealed no activity resembling the claimant's description of events.
6. **Opinion:** Under AR 27-20, paragraph 10-3, liability under the FCA may be based on acts or omissions of U.S. soldiers or civilian employees of a U.S. military department only if they are considered negligent or wrongful. Here, there is no credible evidence suggesting this event actually occurred.
7. **Recommendation:** The claim is denied.

[REDACTED]  
CPT, JA  
Claims Judge Advocate

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2 Jan 00  
DEPARTMENT OF THE ARMY  
HEADQUARTERS, 101<sup>ST</sup> 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 101<sup>st</sup> Airborne Division (Air Assault) Claims Office at DSN 318-845-1022.

[REDACTED]  
CPT, FCC  
Foreign Claims Commissioner

001300

## Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: N/A

Power of Attorney provided and interpreter approved:

Decedents: [REDACTED]

Hometown: Sam

Iraqi Resident: [REDACTED]

My claim arose at:

(Town)

Samara (City)

(Country)

My claim arose on:

12 April 05

Month

Day

Year

Proof of Ownership:

N/A

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): Original death cert

CO - and GSW

Interpreter Approved:

Legal Expert Opinion:

W/H

Interpreter Approved:

Witness Statement (Consistent?): 1) Neighbors - CF convoy shot decedent

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.)

C's mother allegedly killed by CF

Al-Jabire area, near hospital.

C was away from home, when returned, traffic jam in front of C's home. CF convoy approached the decedent standing in front of home.

CF began shooting to clear the way for them.

around 10:30 morning.

No one else was hurt/killed during incident.

Evidence: death cert.

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