



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

4 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IA8-016

1. Identifying Data: [REDACTED]

2. Date and place the incident occurred giving rise to the claim: The claim occurred on September 28, 2005 in Balad, Iraq.

3. Amount of claim and date it was filed: Claimant filed a claim for \$6,000 on 7 Jan. 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 father in law [REDACTED] was driving his vehicle near an IA checkpoint. A CF convoy approached in the opposite direction. CF allegedly told the deceased to pull over and then shot the vehicle. The driver of the vehicle was allegedly killed causing the car to roll several times. A SIGACTS investigation revealed that a CF convoy had fired on a LN vehicle when it failed to get off the road for an approaching convoy. Instead of pulling over to the side of the road, the deceased turned his lights on high and continued down the road toward the convoy. One warning shot was fired which caused the vehicle to depart the roadway. No injuries were reported. Claimant is filing the claim for damage to his vehicle.

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 Claimant's injury was proximately caused by anticipatory self defense by CF. Here, self defense and force protection constitutes combat activity because action was taken in immediate preparation for impending armed conflict.

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7. **Recommendation:** The claim is denied.

[REDACTED]

CPT, JA  
Claims Judge Advocate

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6-1R8-16  
16 Jan 02

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

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## Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: \_\_\_\_\_

Power of Attorney provided and interpreter approved: \_\_\_\_\_

Decedents: \_\_\_\_\_

Hometown: \_\_\_\_\_ Iraqi Resident:

My claim arose at: Bakhd (Town) (City) (Country)

My claim arose on: 28 Sept 05 Month Day Year

Proof of Ownership: original 100 seen - names match

Interpreter Approved: chasse & match

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): N/A

Interpreter Approved: \_\_\_\_\_

Legal Expert Opinion: \$6,000

Interpreter Approved: \_\_\_\_\_

Witness Statement (Consistent?): 2 - II - same story

Interpreter Approved: 3 - II - 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.)

IA checkpoint nearby. IA saw the accident.

Driver of the vehicle told to pull over to

side of road - CF then shot the driver.

C driving in front of CF convoy - told to

pull over.

Dead driver - Rotted car.

Evidence: photos, witness X3,

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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

~~damaged car~~

Amount

86,000

### Total

1: 861002

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

W/1

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)

\$ 6,000

local

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(Signature of Claimant)

Subscribed before me this 2 day of JAN, 2006.

Nature

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