



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

AFZP-VA-HQ

31 January 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]
(Claim Number 06-IR8-135)

1. On 11 Oct 05, [REDACTED] s father shot and killed by U.S. Forces.
2. I certify that funds are available from the CERP to pay [REDACTED] in the amount of \$2500.00. This is a condolence payment.
3. The request to pay [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

001420



**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

25 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IR8-135

1. **Identifying Data:** [REDACTED] by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on October 11, 2005 in Yethrib, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$3,600 on 24 Jan 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:** Claimant alleges that his father, [REDACTED], as killed by CF. The deceased was allegedly driving home when a CF convoy approached from behind and shot at the vehicle. A SIGACTS investigation revealed that TF 5-7 engaged a LN vehicle when it pulled in front of the convoy. Before engaging the vehicle, the lead vehicle of the convoy honked the horn, flashed headlights, and utilized hand and arm signals. The vehicle was engaged and one LN wounded and flown to LSAA for treatment. A search of the vehicle found nothing.
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, claimant's damage was caused during an escalation of force. An escalation of force constitutes combat because of it is preparation for immediate combat activity.

CPT, JA
Claims Judge Advocate

001421

TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.
From: Name: [REDACTED] Name of claimant is [REDACTED] - SoJ.

POA/ATT:

Power of Attorney provided and interpreter approved: Yes

Decedents: [REDACTED] - Father.

Hometown: [REDACTED]

Iraqi Resident: [REDACTED]

My claim arose at: Yatrib, Balad.

(Town)

(City)

(Country)

My claim arose on: 11 OCT 05

Month

Day

Year

Proof of Ownership:

VIN Match: Yes

Interpreter Approved:

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

Interpreter Approved:

Medical Report/Legal Expert Opinion: Yes. Int'l cert. of death signed by MAF doctor AF

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.)

died from gunshot wound.

W1 Police Officer. [REDACTED] - "hearsay" people told him shot in back - escalation of force.

W2 Police Officer same story

[REDACTED] Police Transition Team

Wrongful death + vehicle claim. 1980. 2d pick-up truck. gunshot.
Son Father alleges: Father was driving home when coalition forces approached from behind, fired a shot + then LF said "yes, we did it."

Evidence:

001422

