

6-176250  
8 Jul 06



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

MEMORANDUM FOR Record

SUBJECT: Claimant 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 supporting your claim. If the appeal is sent after 30 days have 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.

████████████████████  
CPT, JA  
FCC

000417



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 101<sup>st</sup> AIRBORNE DIVISION (AIR ASSAULT)  
TASK FORCE BAND OF BROTHERS  
COB SPEICHER, IRAQ APO AE 09393

AFZB-JA-C

25 June 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 6-IT6-050

1. **Identifying Data:** [REDACTED] Samarra, Iraq

2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 12 January 2006, in Samarra, Iraq.

3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 24 June 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 filed in a timely manner.

5. **Facts:** The Claimant alleges an IED detonated on a CF convoy and they started shooting randomly, killing his son. The Claimant provided witness statements and a death certificate to substantiate the claim. A SIGACTS investigation revealed no IED attacks in Samarra that day and no other incidents similar to Claimant's description of events.

6. **Opinion:** This claim is non-compensable under the FCA.

a. 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. There is insufficient evidence to prove this claim.

b. 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." Facts as alleged show CF were reacting to an IED, a combat activity.

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

[REDACTED]  
CPT, JA  
FCC

000418

# 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: \_\_\_\_\_

Decedents:

Hometown: Samarra † Iraqi Resident: Affirm

My claim arose at: \_\_\_\_\_  
(Town) Samarra (City) (High Way) (Country)

My claim arose on: Jan. 12 2006  
Month Day Year

Proof of Ownership: \_\_\_\_\_

VIN Match: \_\_\_\_\_

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

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): [REDACTED] shot five, 11 years old, unfixed \$5m

† Interpreter Approved:

Medical Report/Legal Expert Opinion: \$ 5000

† Interpreter Approved:

Witness Statement (Consistent?): ① Eye witness: lives at the same area, neighbor. white an (IED) detonated on CF Convoy on the High Way. CF Convoy members opened fire randomly due to that killed the claimant's son

† Interpreter Approved:

② Same story - Eye witness

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.)

In 12/1/2006. The claimant is a farmer who owned a farm with the head of the High way and living at it with a mud house. When CF Convoy come through out the High way, an detonated of (IED) in some time CF Convoy members had shot fire randomly due to that my son: [REDACTED] get killed immediately. according to death certificate and witnesses statements.

NEAR Hwarish → Right in Middle  
(W of SAMARRA)  
NEAR BRASSFIELD - MONA

Evidence: \_\_\_\_\_

000419

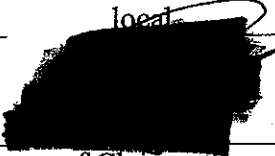
List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

<u>Item</u>	<u>Amount</u>


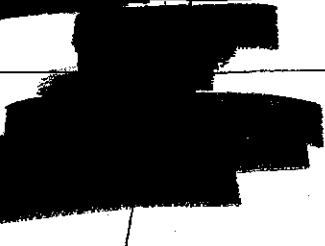
Total: \$5000

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

\$ 5000 local

  
(Signature of Claimant)

Subscribed before me this 24 day of June, 2006

  
(Print Name)  
  
(Signature)