

FOREIGN CLAIMS COMMISSION COVER SHEET

Claim Number: 2.0535

USARCS NUMBER: 1424-05

Date Received: 15-Sep-05

Name: [REDACTED]

Address: Al-Mashtal Quarter [REDACTED] Baghdad, Iraq

Claim Summary: Claimant's father was killed by small arms fire caused by Coalition Forces.

Date of Incident: 04-Mar-05

Amount Requested: \$20,000.00

SEND TO DIV, REC. DENIAL

Recommendation: Approval
Investigation

Denial
DC. 1

TELL THEM
CONDOLENCE PAID

Date Reviewed by OIC:

Claim Is: Approved in the amount of \$_____.

Denied. Denial Code 1

On hold pending investigation findings.

000467



DEPARTMENT OF THE ARMY
HEADQUARTERS, THIRD INFANTRY DIVISION (FWD)
OFFICE OF THE STAFF JUDGE ADVOCATE
APO AE 09352

REPLY TO
ATTENTION OF:

AFZP-JAC

24 September 2005

MEMORANDUM FOR RECORD

SUBJECT: Action on Claim of [REDACTED] 1424-05

1. Facts. Claimant's father was killed by a U.S. patrol when his vehicle failed to comply with verbal commands and warning shots. Claimant's family has already received a condolence payment for this incident.

Claimant has requested \$20,000.

2. Opinion. In order to form a basis for a claim under the FCA, it must be shown that the incident occurred outside the United States, and that it was caused by noncombatant activities of the United States Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the Armed Forces. In this case, the damage was a result of combat activities and therefore is not compensable under the FCA.

3. Authority. The Foreign Claims Act (10 U.S.C. § 2734) as implemented by AR 27-20, Chapter 10.

4. Action. The claim is denied.

[REDACTED]
CW2/JA
FCC IJ4

[REDACTED]
CPT, JA
FCC IJ4

000468

DEPARTMENT OF THE ARMY
HEADQUARTERS AND HEADQUARTERS COMPANY
2D BRIGADE, 3D INFANTRY DIVISION
FOB LOYALTY, APO AE 09380

REPLY TO
ATTENTION OF:

AFZP-VB-JA

23 September 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED]

1. Claimant's name and address: [REDACTED] Baghdad, Iraq.

2. Date and place the incident occurred giving rise to the claim: Incident occurred on 4 March 2005, at Al-Masthal Quarter, Baghdad, Iraq.

3. Amount of claim and date it was filed: Claimant filed a claim in the amount of \$20,000.00 on 15 September 2005.

4. Claim considered under the Foreign Claims Act and Chapter 10, AR 27-20; claimant filed for the death of the claimant's father from small arms fire by Coalition Forces.

5. Facts:

a. On 4 March 2005, the claimant's father was killed by small arms fire when his vehicle was engaged by a Coalition Forces patrol.

b. The death was a result of escalation of force by Coalition Forces.

6. Opinion:

a. In order to form a basis for a claim under the FCA, it must be shown that the incident occurred outside the United States, and that it was caused by non-combat activities of the United States Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the Armed Forces.

b. The death was a result of combat operations involving Coalition Forces.

c. The claimant has received a condolence payment for the death of his father.

7. Recommended Action: Disapprove the claim.

[REDACTED]
[REDACTED]
[REDACTED]
CPT, JA
Single Member FCC

000469

CLAIMS FORM
US ARMY FOREIGN COMMISSION

CLAIM # 2-049-5

CLAIMANT NAME _____
ADDRESS _____
SEC/ _____ ST/ _____ H/ _____
PHONE# : _____
IAM _____

- a. A Citizen and National Of: Iraq
b. A Permanent Resident Of: Baghdad
c. Employed By : _____
d. Check one () An insurer () Not an insurer
e. Check one () A subrogate () Not a subrogate

HAVE YOU FILED A CLAIM BEFORE (circle one) YES OR NO

TYPE OF CLAIM (circle which applied)

INJURY : DEATH
PROPERTY DAMAGE : VEHICLE , BUILDING , FIELD , ANIMAL , OR OTHER ,

NAME : _____

RELATIONSHIP The claimant's Father AGE: 45 DOB D/M/Y 25 AUG. 1960

DATE INCIDENT OCCURRED : /D/ 4 /M/ MAR. /YYYY/ 2005

PLACE INCIDENT OCCURRED Al-Mashtal Quarter

SEC/ _____ ST/ _____ H/ _____

SITUATION The claimant's father Mr. ()
was driving his car when an American patrol
came and shot at his car warning shots to let
him stop his car, so one of these shots killed him.

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

Item	Amount
<u>He asks a compensation</u>	

TOTAL AMOUNT : US DOLLAR 20,000 \$ OR DINAR _____

Today date 10 AUGUST 2005
Signature _____ Twenty thousands U.S. dollar

000470



DEPARTMENT OF THE ARMY
D Company, 1st Battalion, 64th Armor Regiment
2nd Brigade, Unit of Action, 3^d Infantry Division
Camp Rustimiyah, Iraq APO AE 09380

REPLY TO
ATTENTION
OF:

AFZP-VBL-D

07 JULY 2005

MEMORANDUM FOR RECORD

SUBJECT: 04 MARCH 05 Engagement that Lead to the Death of [REDACTED]

1. The purpose of this memorandum is to allow the claimant [REDACTED] visit his nephew at the Tekreit Hospital in the green zone and begin the claim for the accidental death of his brother.

2. On 04 MAR 05 at approximately 2310, 1st Platoon, D Company while on patrol in the company AOR, came in contact with a dark green Suzuki SUV occupied by [REDACTED] and his three passengers: [REDACTED] and [REDACTED]. The vehicle approached the US patrol's vehicles while they were conducting a security patrol with two vehicles in the lead followed by a dismounted element followed by two vehicles in trail vicinity MB5434685852. As the vehicle approached the soldiers verbally warned and motioned for the vehicle to stop with TAC-lights. When the vehicle would not stop at approximately 75 meters, two soldiers one with an M16 and one with an M240B fired warning shots aimed initially 5 meters in front of the vehicle and subsequently sweeping through the front hood and eventually the cab. The vehicle then stopped and cut off its lights approximately 25 meters from the US column. The soldiers then advanced on the vehicle and began simultaneously searching the vehicle and treating the wounded. The driver, [REDACTED] expired after a brief attempt at CPR while 2 of the 3 occupants were treated for gun shot wounds. [REDACTED] a 23 year old male, was treated for a gun shot wound to the knee and evacuated to FOB Rustimiyah. [REDACTED] a 12 year old boy, was treated for a gun shot wound to the hand and also evacuated to Camp Rustimiyah. [REDACTED] a 10 year old boy, was not injured during the incident but remained with these patients. The patients were subsequently evacuated to the CSH to receive further treatment. The unknown driver was searched for identification and taken to the IP station for further processing.

3. My assessment is that the soldiers of 1st Platoon acted in accordance with the ROE and fired purely in self defense. I also feel that the Iraqi civilians acted out of fear and confusion and that the driver was possibly intoxicated. I feel they had no malicious intent toward the coalition or the US Army. It is unfortunate that this event lead to the death of a local national. I recommend that the deceased's family receive compensation for their pain and anguish and for the damage to their vehicle.

4. The POC for this memorandum is the undersigned at Camp Rustimiyah, Iraq, building 3B15.

[REDACTED]
[REDACTED] EY
CPT, AR
Commanding

000471



DEPARTMENT OF THE ARMY
D Company, 1st Battalion, 64th Armor Regiment
2nd Brigade, Unit of Action, 3^d Infantry Division
Camp Rustimiyah, Iraq APO AE 09380

REPLY TO
ATTENTION
OF:

AFZP-VBL-D

14 MARCH 2005

MEMORANDUM FOR RECORD

SUBJECT: 04 MARCH 05 Engagement that Lead to the Death of [REDACTED].

1. The purpose of this memorandum is to allow the claimant [REDACTED] visit his nephew at the Tekreit Hospital in the green zone and begin the claim for the accidental death of his brother.
2. On 04 MAR 05 at approximately 2310, 1st Platoon, D Company while on patrol in the company AOR, came in contact with a dark green Suzuki SUV occupied by [REDACTED] and his three passengers: [REDACTED] and [REDACTED]. The vehicle approached the US patrol's vehicles while they were conducting a security patrol with two vehicles in the lead followed by a dismounted element followed by two vehicles in trail vicinity MB5434685852. As the vehicle approached the soldiers verbally warned and motioned for the vehicle to stop with TAC lights. When the vehicle would not stop at approximately 75 meters, two soldiers one with an M16 and one with an M240B fired warning shots aimed initially 5 meters in front of the vehicle and subsequently sweeping through the front hood and eventually the cab. The vehicle then stopped and cut off its lights approximately 25 meters from the US column. The soldiers then advanced on the vehicle and began simultaneously searching the vehicle and treating the wounded. The driver, [REDACTED], expired after a brief attempt at CPR while 2 of the 3 occupants were treated for gun shot wounds. [REDACTED] a 23 year old male, was treated for a gun shot wound to the knee and evacuated to FOB Rustimiyah. [REDACTED] a 12 year old boy, was treated for a gun shot wound to the hand and also evacuated to Camp Rustimiyah. [REDACTED] a 10 year old boy, was not injured during the incident but remained with these patients. The patients were subsequently evacuated to the CSH to receive further treatment. The unknown driver was searched for identification and taken to the IP station for further processing.
3. My assessment is that the soldiers of 1st Platoon acted in accordance with the ROE and fired purely in self defense. I also feel that the Iraqi civilians acted out of fear and confusion and had no malicious intent toward the coalition or the US Army. It is unfortunate that this event lead to the death of a local national and the only recourse I can recommend is that the deceased's family receive compensation for their pain and anguish and be allowed to visit their nephew in the green zone.
4. The POC for this memorandum is the undersigned at Camp Rustimiyah, Iraq, building 3B15.

[REDACTED]
CPT, AR
Commanding

000472



DEPARTMENT OF THE ARMY
D Company, 1st Battalion, 64th Armor Regiment
2nd Brigade, Unit of Action, 3^d Infantry Division
Camp Rustimiyah, Iraq APO AE 09380

REPLY TO
ATTENTION
OF:

AFZP-VBL-D

05 MARCH 2005

MEMORANDUM FOR RECORD

SUBJECT: 04 MARCH 05 Engagement that Lead to the Death of unknown vehicle driver.

1. The purpose of this memorandum is to outline my informal investigation into the events that occurred on 04 MAR 05 resulting in the death of an unknown Iraqi citizen and the wounding of two of his passengers.
2. On 04 MAR 05 at approximately 2310, 1st Platoon, D Company while on patrol in the company AOR, came in contact with a dark green Suzuki SUV occupied by an unknown driver and his three passengers: [REDACTED] and [REDACTED]. The vehicle approached the US patrol's vehicles while they were conducting a security patrol with two vehicles in the lead followed by a dismounted element followed by two vehicles in trail vicinity MB5434685852. As the vehicle approached the soldiers verbally warned and motioned for the vehicle to stop with TAC lights. When the vehicle would not stop at approximately 75 meters, SPC Trader with an M16 and [REDACTED] with an M240B fired warning shots aimed initially 5 meters in front of the vehicle and subsequently sweeping through the front hood and eventually the cab. The vehicle then stopped and cut off its lights approximately 25 meters from the US column. The soldiers then advanced on the vehicle and began simultaneously searching the vehicle and treated the wounded. The driver, approximately age 25-30, expired after a brief attempt at CPR while 2 of the 3 occupants were treated for gun shot wounds. [REDACTED], a 25-30 year old male, was treated for a gun shot wound to the knee and evacuated to FOB Rustimiyah. [REDACTED], a 12 year old boy, was treated for a gun shot wound to the hand and also evacuated to Camp Rustimiyah. [REDACTED], a 10 year old boy, was not injured during the incident but remained with these patients. The patients were subsequently evacuated to the CSH to receive further treatment. The unknown driver was searched for identification and taken to the IP station for further processing.
3. My assessment is that the soldiers of 1st Platoon acted in accordance with the ROE and fired purely in self defense. I feel there was nothing the platoon could have done to mitigate this unfortunate incident.
4. The POC for this memorandum is the undersigned at Camp Rustimiyah, Iraq, building 3B15.

[REDACTED]
CPT, AR
Commanding

Encl.
Enclosure 1 (Sketch)
Enclosure 2 (Photos)

000473