

U-1K8-235
14 Feb 06



DEPARTMENT OF THE ARMY
HEADQUARTERS, 101ST 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 provided additional evidence, then the appeal will be denied.

4. POC is the 101st Airborne Division (Air Assault) Claims Office at DSN 318-845-1022.



CPT, FCC
Foreign Claims Commissioner

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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

9 February 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IR8-240

- 1. Identifying Data:** [REDACTED] by Attorney [REDACTED]
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 17 September 2005 in Balad, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$4,000 on 7 Feb. 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:** The Claimant alleges that her husband was shot by a CF while he was serving as a civilian guard near the market in Balad. CF allegedly took the deceased, [REDACTED] to the Tikrit hospital, where he pronounced dead on arrival. In support of the claim, the Claimant has presented a death certificate, witness statement, claimant statement and police and judicial records. A SIGACTS investigation revealed no activity meeting 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 insufficient credible evidence of wrongful or negligent acts attributable to CF.
- 7. Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
Claims Judge Advocate

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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: Yes - Cert Copy

Decedents: [REDACTED]

Hometown: _____

Iraqi Resident: _____

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

My claim arose on: Sep 17 2005 (2330)
Month Day Year

Proof of Ownership: _____

VIN Match: _____

Interpreter Approved: _____

NA

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

Yes - Tikrit Hospital
Fractures and blood loss due to wounds from shooting

Interpreter Approved: _____

Medical Report/Legal Expert Opinion: _____

NA

Interpreter Approved: _____

Witness Statement (Consistent?): W₁ - (neighbor) heard shots / arrived to see claimant deceased
W₂ - (father) same as above

Interpreter Approved: Yes

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.)

Wrongful death

Claimant alleges her husband was a civilian guard for shops in area and was shot by CF while on Guard Duty - CF allegedly took the deceased to the Tikrit Hospital - where he was pronounced dead on arrival.

Advised only to confirm with govt - that he was not an employee of M.O.

Evidence: Death cert / witness /

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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: \$4,000

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

NA

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)

\$

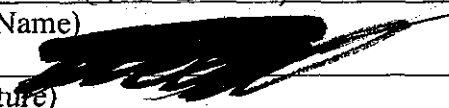
4,000-

local


(Signature of Claimant)

Subscribed before me this 7th day of February, 2006


(Print Name)


(Signature)

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