

U-1115-281
27 Dec 05



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE, 3D INFANTRY DIVISION (FORWARD)
TASK FORCE LIBERTY, OPERATION IRAQI FREEDOM
FORWARD OPERATING BASE SPEICHER
APO AE 09393

DHFT-JA

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 Tikrit Claims Office at DNVT 584-1084.

[REDACTED]
CPT, FCC
Foreign Claims Commissioner

000959



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, FOB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

25 December 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IA3-229

- 1. Identifying Data:** [REDACTED] by Attorney [REDACTED]
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on September 20, 2005 in Tikrit, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$3,500 on 13 Dec. 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:** Claimant alleges that CF fired and killed the decedant, [REDACTED], during a firefight with AIF. A SIGACTS investigation (SIGACT 13418) revealed that a complex attack was conducted against the 1137 Transportation Company on that date using SAF, RPG and parachute grenades. The convoy was attacked when it made a wrong turn in the city of Ad Deloyiah on its way to FOB McKenzie. There were 2 US WIA and 4 local nations killed in the incident. SIGACTS did not have information revealing the names of the Iraqi decedants.
- 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, CF were engaging in bona fide self defense when they were attacked. Accordingly, CF actions constitute combat activity.

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

[REDACTED]

CPT, JA
Claims Judge Advocate

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [Redacted]

POA/A [Redacted]

Power of Attorney and interpreter approved:

Decedent: [Redacted]

Home: [Redacted] Iraqi Resident:

My claim arose in: Babad Al Deleyia (Town) (City) (Country)

My claim arose on: Sept 20, 2005 (Month) (Day) (Year)

Proof of Ownership: [Redacted]

Interpreter Approved:

Death Certificate (if available, and Time of Death Consistent with Claimant allegations): Original seen

COP - GSW

Interpreter Approved:

Legal Expert Opinion: [Redacted]

Interpreter Approved:

Witness Statement (if available): WI - Neighbors - CF shotted to keep away from convoy.

Interpreter Approved:

Give a brief statement of the incident on which the claim for damages to property or for personal injury is based (attach if necessary.) - none thru 30 vehicles -

CF random shoot the C's father -

CF lost WAP inside Ad Deleyia began shoot

Randomly - Put holes in Dude's shop - &

Killed him Helicopters arrived to assist leaving

Father died instantly the city

11 a.m. started shooting to get out of situation - to keep people away

Evidence: - One of the Humvees stopped b/c they shot the claimant. Lost paper given 000962

Redacted area headed in opposite direction of FOB M. Kenzie

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>
Wrongful death	3,500
Property damage	2,000

Total: 3,500

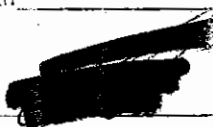
I was insured to the following extent against the damage or injuries I have sustained:

The name and address of the insurer, if any is:

(Name) _____ (Address) _____

I claim as damages the amount in U.S. dollars and local currency)

\$ 3,500 Local _____


Signature of Claimant)

Subscribed before 20 day of Dec, 2005.


Print Name

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