

MEMORANDUM FOR RECORD

SUBJECT: Claim of [REDACTED], 6-IA3-082, UP AR 27-20, Chapter 11

1. IDENTIFYING DATA:

- a. CLAIMANT: [REDACTED], Iraqi resident.
- b. PRESENT ADDRESS: Samarra, Iraq.
- c. ATTORNEY: N/A
- d. DATE OF INCIDENT: 21 April 2005.
- e. PLACE OF INCIDENT: Al Khatib Secondary School, Samarra
- f. DATE AND AMOUNT OF CLAIM: 21 November 2005, \$4,000.
- f. SUMMARY: Claimant's sister, [REDACTED], was allegedly killed by CF forces.
- g. COMPANION CASES: None

2. JURISDICTION: This claim was filed by an Iraqi resident. He is a proper party claimant, and the claim is cognizable under the Foreign Claims Act (10 U.S.C. § 2734) and Chapter 10, AR 27-20. This claim was properly presented, contains factually specific allegations, is dated, states a sum certain and is signed by Claimant.

3. FACTS:

a. On 11 April 2005, at about 11:30 am, Claimant's 8 year old sister, [REDACTED], was allegedly killed by CF forces near the Al Khatib Secondary School, Samarra. Claimant says that his sister was playing near the school and was shot by CF. Deceased's death certificate confirms she was killed by gunfire. The claimant did not personally witness the shooting and relies solely on eye witnesses. Eye witnesses related that victim was shot by CF forces by a "random shot." During the interview, it was impossible to clarify what the claimant meant by a "random shot." A SIGACTS investigation revealed no activity or incidents in Samarra on that date.

b. The claimant presented a claim in the amount of \$4,000 on 21 November 2005.

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4. LEGAL ANALYSIS:

a. 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."

b. There is insufficient evidence to show that CF forces committed a negligent or wrongful act. Even if the witness statements and Claimant's oral testimony is true, then this claim is barred because CF actions constitute combat activity.

5. **DAMAGES:** The claimant has claimed damages associated with the wrongful death of his father in the amount of \$4,000. In support of the claim, the Claimant has presented an original death certificate, two witness statements, deceased's identification card, and Iraqi Police Statement.

6. **RECOMMENDATION:** Based upon the investigation by this FCC, it is reasonable to conclude that the CF activity can be characterized as combat activity. I recommend this claim be denied.

[REDACTED]
[REDACTED]
[REDACTED]
CPT, JA
FCC IT6

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6-1A3-82
08 Nov



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.

████████████████████
CPT, FCC
Foreign Claims Commissioner

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Claims Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: _____

Power of Attorney provided and interpreter approved: _____

Decedents: [REDACTED] (Age 8 yrs)

Hometown: Samarra

Iraqi Resident: _____

My claim arose at: _____

(Town)

Samarra

(City)

(Country)

My claim arose on: _____

Month

11 April

Day

2005

Year

Proof of Ownership: _____

N/A

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): yes - original seen & names match

cause of death - gun shot wounds

Interpreter Approved: _____

Legal Expert Opinion: _____

N/A - (none)

Interpreter Approved: _____

Witness Statement (Consistent?): 2 statements -

1) Neighbors - CF shot victim
2) eyewitness

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.)

C's sister was shot, by a random shot by CF forces.

C doesn't know how sister was shot, but a witness told him CF forces shot sister.

Shooting happened near Al-Khatib school (secondary school), at approx 11:30 am, she was playing near school.

Impossible to tell what C means by a "random shooting"

Evidence: original death certifiact, 2 witness statements

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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	\$4,000


Total: \$4,000

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

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 21 day of NOV, 2005.



(Print Name)


(Signature)