

Le1A3-044
29 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

001043



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE COMBAT TEAM
3RD INFANTRY DIVISION (TASK FORCE BAND OF BROTHERS)
FOB SPEICHER, IRAQ APO AE 09393

AFZP-VA-JA

18 November 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IA3-046

- 1. Identifying Data:** [REDACTED], Samarra, Iraq
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 16 August 2005, in Samarra, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$12,000.00 on 13 November 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 filed in a timely manner.
- 5. Facts:** Claimant alleges that CF engaged her son's truck with a rocket from a helicopter as they drove near an oil pipeline in Samarra. The rocket missed the target and hit the oil pipe, causing an explosion. The explosion caused burning oil to land on the truck, engulfing it in flames, and causing the death of the claimant's two sons. The truck and its load of eggplant was also destroyed. The claimant provided pictures, death certificates, an expert report, witness statements, and court documents to substantiate the claim.
- 6. Opinion:** There is insufficient evidence to indicate that U.S. Forces were involved in this incident. It is highly unlikely that a helicopter would fire a rocket anywhere near an oil pipeline. On top of this, the story given by the claimant is incredible. Even if there was sufficient evidence, this event constitutes combat action and is non-compensable due to the combat exception to the FCA.
- 7. Recommendation:** The claim is denied.

[REDACTED]
[REDACTED] AN
CPT, JA
FCC

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [redacted]

POA/ATT: [redacted] (son)

Power of Attorney provided and interpreter approved:

Decedents: [redacted] - died after 14 days
[redacted] (848722) - died after 4 days in hospital

Hometown: _____ Iraqi Resident: _____

My claim arose at: Samarra Iraq
(Town) (City) (Country)

My claim arose on: AUG 16 2005
Month Day Year

Proof of Ownership: No - C says burned inside the car
 Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): yes - for [redacted], C will bring in original next week.
 Interpreter Approved: _____

Legal Expert Opinion: yes - says ~~new~~ truck was worth \$7,000. C
 Interpreter Approved: says new truck costs \$7,000 - \$1,500 for new.
in house - saw flash explosion after 2 mins didn't see any rockets
Witness Statement (Consistent?): 2 statements -
 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.)
2 brothers have eggplants to sell inside Samarra Oil pipe explosion. US helicopter shoots at brothers inside the truck. Happened in ~~the~~ morning. C claims helicopter also shot ~~at~~ ^{hit} pipe. - pipe explodes & engulfs truck
Both brothers taken to Hospital. Severely burned & died inside hospital - ~~at~~ (hospital inside Tikrit).
[redacted] owns the car
Witnesses s. it was a rocket that hit car
1993 truck (toyota pick up) claims it was worth \$7,000.
Evidence: photographs, death certificates, police report, city council estimate.

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
Truck Damage	\$ 7,000
Wrongful Death	\$ 2,500
Wrongful Death	\$ 2,500

Total: \$ 12,000

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)

\$ 12,000 local


(Signature of Claimant)

Subscribed before me this 13 day of November, 2005.


(Print Name)


(Signature)

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