

0-1R8-152
7 Feb 070



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

MEMORANDUM FOR Record

SUBJECT: Claimant 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 supporting your claim. If the appeal is sent after 30 days have passed, or does not provide additional evidence, then the appeal will be denied.

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

[REDACTED]

CPT, JA
Chief of Claims

001076



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REPLY TO
ATTENTION OF

AFZB-JA-C

25 January 2006

MEMORANDUM OF OPINION

SUBJECT: [REDACTED] 06-IR8-152

1. **Identifying Data:** [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 28 July 2005, in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 24 January 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 a relative was driving a vehicle when a CF sniper shot him. Claimant also alleges that CF told people that they were sorry and that the deceased is the brother of the head judge in Samarra. A SIGACTS investigation confirmed that CF engaged a vehicle that was headed towards a blocking position by firing three warning shots. The vehicle did not stop so an additional shot was fired killing the driver of the vehicle.
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 actions constitute combat activity and thus precludes compensation.
7. **Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
Chief of Claims

001077

TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: [REDACTED] - original seen

Power of Attorney provided and interpreter approved: _____

Decedents: _____

Hometown: Samarra Iraqi Resident: _____

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

My claim arose on: 28 July 2005
Month Day Year

Proof of Ownership: N/A

VIN Match: _____

Interpreter Approved: _____

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

COO - bullet in head

Interpreter Approved: _____

Medical Report/Legal Expert Opinion: N/A

Interpreter Approved: _____

Witness Statement (Consistent?): Neighbor -

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.)

Deceased drove to his house when CF sniper shot him. [CF allegedly told people "sorry" occurred 1900 - No curfew in samarra Deceased is the brother of head judge in samarra - About 70 yrs old. CF in the building. - No kids, just wife

Evidence: photos

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	\$2500

Total: \$2500


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

N/A

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)
\$ 2,500 local _____


(Signature of Claimant)

Subscribed before me this 24 day of Jan, 2006.


(Pr _____)

(Signature)