



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

13 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IA3-125

1. **Identifying Data:** [REDACTED] by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on August 24, 2005 in Bayji, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 29 Nov. 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:** The Claimant alleges that a CF killed his son when he was driving from his village to the center of the city. A CF convoy allegedly approached from behind and began shooting into the car. A SIGACTS investigation revealed that a CF shot at a suspected VBID vehicle when the vehicle failed to yield after the patrol used a spotlight and warning shots to warn the driver. SIGACTS confirm 1 LN KIA.
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, the deceased was killed as a result of a escalation of force which constitutes combat activity in this instance because CF were preparing for a possible VBID attack.
7. **Recommendation:** The claim is denied.

[REDACTED]
[REDACTED] R
CPT, JA
Claims Judge Advocate

001198

U-245-125
U DEC



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

001199

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved:

Decedents: [REDACTED]

Hometown: _____

Iraqi Resident: _____

My claim arose at: _____

(Town)

Bayji

(City)

(Country)

My claim arose on: _____

Month

Aug

Day

24

Year

2005

Proof of Ownership: _____

Interpreter Approved: _____

N/A

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

Yes - Saw Original (Kept Copy)
COO - ~~See~~ Loss of Blood / Heart stopped / Saw gunshot wounds to stomach

Interpreter Approved: _____

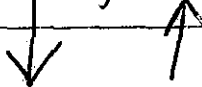
Yes - confirmed
W1 - (Eyewitness) brother - in car w/ decedent, says CF approached from behind

Legal Expert Opinion: _____

W2 - Eyewitness - traveling on road - consistent

Interpreter Approved: _____

Yes



Witness Statement (Consistent?): _____

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.)

WO

as they passed the last CF vehicle

Claimants Saw's were driving from Village to center of city when CF ~~family~~ approached from behind and began shooting into car. 1 - Son ([REDACTED]) who was driving the vehicle was killed. Another car took decedent to hospital but DDA.

- No photos of car that was shot -
- No medical report DDA at Bayji Hospital

Evidence: _____

Death Cert / witness statements

001200

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

WD

Total:

\$5000

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:

N/A

(Name)

(Address)

I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$ 5000

local

[Redacted]
(Signature of Claimant)

Subscribed before me this 29 day of Nov, 2005.

[Redacted]
(Print Name)

[Redacted]
(Signature)

001201