

20 Dec 05  
6-1A3-193



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1<sup>ST</sup> 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

001202



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

10 December 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IA3-193

- 1. Identifying Data:** [REDACTED] by POA [REDACTED]
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on August 8, 2005 in Tikrit, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$4,000 on 6 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:** The Claimant alleges that a CF convoy fired at his vehicle when driving from Tikrit to Bayji. The CF convoy allegedly approached from behind and fired at the vehicle. Claimant's son was killed when he was struck in the back of the hit. A SIGACTS investigation revealed no incidents meeting the claimant's description of events for the relevant time period.
- 6. Opinion:** There is insufficient evidence of negligent or wrongful acts attributable to CF. Even if this incident had been documented in SIGACTS, the claim is non compensable because it is incident to a combat activity. 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."
- 7. Recommendation:** The claim is denied.

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

001203

# Claims Form

To: United States Army Foreign Claims Commission.

From: Name: \_\_\_\_\_

POA/ATT: Swan Sabah Rashid

Power of Attorney provided and interpreter approved: Shown Original / kept copy

Decedents: \_\_\_\_\_

Hometown: \_\_\_\_\_  Iraqi Resident: \_\_\_\_\_

My claim arose at: Tikrit

(Town)

(City)

(Country)

My claim arose on: Aug 8 2005

Month

Day

Year

Proof of Ownership: NA

Interpreter Approved: \_\_\_\_\_

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): Saw original (copy in file) COB - ~~2005~~ Genstat Wounds to back of head

Interpreter Approved: \_\_\_\_\_

Medical Expert Opinion: Decedent died from blood loss from SAP to head.

Interpreter Approved: Yes  
W<sub>1</sub> - Driver (brother) - CF approached from behind and shot at car round hit brother in back of head

Witness Statement (Consistent?): W<sub>2</sub> - Passenger (sister) - consistent

Interpreter Approved: Yes

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.)

Wrongful Death

Claimants son was a passenger in a car driving from Tikrit to Baiji. CF approached from behind. Decedent pulled over to side of road into parking area. CF began firing SAP into vehicle. Decedent was hit in the back of head. Round supposedly hit decedent in back of head.

Evidence: Witness Statements

001204

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

Total: \$4000

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

NA

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)

\$ 7000

local

(Signature of Claimant)

Subscribed before me this 6 day of Dec, 2005.

(Print Name)

(Signature)

001205