



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

9 December 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IA3-117

- 1. Identifying Data:** [REDACTED]
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on October 11, 2005 in Ber Ahmed, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$3,000 on 27 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 his brother, [REDACTED], was killed during a CF cordon and search operation during the early morning hours of 11 October 2005. The claimant alleges that he and the deceased were attempting to enter their village on foot when CF forces began to fire. His brother was allegedly hit by gunfire and was killed. Neither of the men were allegedly carrying weapons. An American death certificate indicates that Iraqi army personnel took the decedant to FOB Bernstein where the deceased was dead on arrival. SIGACTS 14543 confirmed a raid in the village in search of an IED cell member. SIGACTS reported that the raid proved unfruitful and mentions no civilian deaths.
- 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, if the Claimant's testimony is true, then this claim is non-compensable because the death was incident to a combat operation.

001530

7. Recommendation: The claim is denied.



CPT, JA
Claims Judge Advocate

001531

11 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.

[Redacted Signature]

CPT, FCC
Foreign Claims Commissioner

001532

Claims Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: _____

Power of Attorney provided and interpreter approved: _____

→ Decedents: [REDACTED]

Hometown: Ber Ahmed

Iraqi Resident: _____

My claim arose at:

Ber Ahmed

(Town)

(City)

(Country)

My claim arose on:

11

OCT 05

Month

Day

Year

Proof of Ownership: _____

Interpreter Approved: _____

N/A

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): yes - American death cert

Interpreter Approved: _____

Legal Expert Opinion: _____

Interpreter Approved: _____

None

Witness Statement (Consistent?): N

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.)

CF surrounded village at 6am, they came for bad guys. C & Brother (deceased) were outside the village & tried to re-enter when they were shot.

C's brother treated at American hospital in Tuz

Name matches on the hospital report, so does the injury locations. The decedent was dead on arrival.

C was not carry a weapon when shot.

Evidence: American hospital report;

001533

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	\$3,000

Total \$3,000

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)
\$ 3,000 local _____

[Redacted Signature]
(Signature of Claimant)

Subscribed before me this 27 day of NOV, 2005.

[Redacted Name]
(Print Name)
[Redacted Signature]
(Signature)