

6-176-045

8 Jul 06



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
FCC

000413



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AFZB-JA-C

25 June 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 6-IT6-045

1. **Identifying Data:** [REDACTED] by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on April 2, 2006 in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 24 June 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 that a CF was traveling near his house when it was attacked by AIF. The convoy allegedly returned fire in an uncontrolled manner and allegedly killed the claimant's wife. A SIGACTS investigation revealed no activity meeting claimant's description of events. *sister*
6. **Opinion:** "Under AR 27-20, paragraph 10-3, liability under the FCA may be based on acts or omissions of U.S. soldiers or civilian employees of a U.S. military department only if they are considered negligent or wrongful." Here, there is insufficient evidence to prove the claim. The claim is likely also precluded from payment under their combat exception, if in the event the claimant is able to bring in more evidence.
7. **Recommendation:** The claim is denied

[REDACTED]
CPT, JA
Claims Judge Advocate

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: [REDACTED]

Decedents: ✓

Hometown: Samarra Iraqi Resident: Affirmative

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

My claim arose on: April (Month) 2nd (Day) 2006 (Year)

Proof of Ownership: ---

VIN Match: ---

Interpreter Approved: ---

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): [REDACTED], 28 years old, unspecified time

Interpreter Approved: ✓

Medical Report/Legal Expert Opinion: \$5000

Interpreter Approved: ✓

Witness Statement (Consistent?): ① Eye witness, while the CF Convoy came through out road near ~~to~~ the claimant's house was unknown direction shot fire to the CF Convoy. They shot fire back uncontrolled way. The claimant wife got dead, when she was out sitting house just in front of the exit door.

Interpreter Approved: ② Same story.

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.)

In 2/1/2006. Near by my house when CF convoy came through out. It was unknown direction shot fire to road, CF Convoy. They fire back with uncontrolled manner, due to that my wife got killed when she was in front her house attempted to go in door, according to death certificate and witness' statements information, the ~~old~~ woman ~~was~~ had been a small babe (with breast feed).

decident is claimant's sister

Evidence: ---


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.)

<u>Item</u>	<u>Amount</u>


Total: \$ 5000

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

\$ 5000 local


(Signature of Claimant)

Subscribed before me this 24 day of June, 2006.

(Print Name) 
(Signature) 