

0-148-012
17 Jan 02



DEPARTMENT OF THE ARMY
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
TASK FORCE BAND OF BROTHERS
FORWARD OPERATING BASE SPEICHER
APO AE 09393

AFZB-JA-C

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



CPT, FCC
Foreign Claims Commissioner

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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

4 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IR8-012

1. **Identifying Data:** [REDACTED]

2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on April 16, 2005 in Samarra, Iraq.

3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 2 Jan. 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 her daughter was killed by CF. The daughter was allegedly killed when CF returned fire when they were attacked by an AIF drive-by shooting. The incident allegedly occurred around noon. A SIGACTS investigation (#6595) revealed that an IP patrol was attacked by an AIF drive by shooting near the Golden Mosque in Samarra. The SIGACT reported no Iraqi civilian injuries.

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 no action attributable to CF. Claimant's damage, if real, was caused by combat activity by IP.

7. **Recommendation:** The claim is denied.

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

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: N/A

Power of Attorney provided and interpreter approved:

Decedents: [REDACTED]

Hometown: Sammar

Iraqi Resident:

My claim arose at: Sammar

(Town)

(City)

(Country)

My claim arose on: 16 April 05

Month

Day

Year

Proof of Ownership: N/A

Interpreter Approved:

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

Original seen
COD - GSW - head & neck

Interpreter Approved:

Legal Expert Opinion: N/A

Interpreter Approved:

Witness Statement (Consistent?): 1 - Neighbor - eyewitness - CF shot @ AIF & killed
2 - " " " "

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.)

C's daughter killed - [REDACTED] was 12 yrs old
AIF shot CF convoy - convoy followed. AIF car
turned right - CF shot @ car as it turned.
C's daughter was hit by CF bullets.
Occurred at Noon.

Evidence: Death cert, witness x 2, IR report
claimant statement

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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

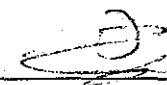
Total: \$2,500

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

The name and address of my insurer (if any) is:


(Name) (Address)

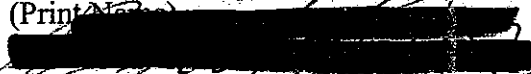
I claim as damages: (Indicate amount in U.S. dollars and local currency)
\$ 2,500 local _____



(Signature of Claimant)

Subscribed before me this 2 day of JAN, 2006.



(Print Name)


(Signature)