



DEPARTMENT OF THE ARMY
Headquarters, 1st Brigade Combat Team
3rd Infantry Division, Task Force Band of Brothers,
Forward Operating Base Speicher, Iraq APO AE 09393

AFZP-VA-JA

7 November 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA3-1830

- 1. Identifying Data:** [REDACTED], Tikrit, Iraq
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 28 June 2005 in Tikrit, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$11,700.00 on 24 September 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 filed in a timely manner.
- 5. Facts:** Claimant alleges U.S. forces fired warning shots at his vehicle as they approached from the rear. These warning shots startled the claimant, who lost control of the truck, which then overturned. The claimant was badly injured and his son who was riding with him was killed. The claim is for wrongful death, personal injury, and vehicle damage. Claimant offered a death certificate, medical records, pictures, witness statements, expert estimate of damages, and court documents to substantiate the claim.
- 6. Opinion:** There is sufficient evidence to support this claim. The use of warning shots to clear traffic by the lead vehicle in a combat patrol is not allowed under the Rules of Engagement. This constitutes a wrongful act which was the proximate cause of the accident. This claim is compensable under the FCA.
- 7. Recommendation:** The claim is approved in the amount of \$10,000.

[REDACTED]
[REDACTED]
CPT, JA
FCC

000832

CMASS # KNCS933 CN 5319936

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [Redacted] (Father)

POA/ATT: [Redacted]

Power of Attorney provided and interpreter approved:

Decedents: [Redacted] -1240A

Hometown: Tikrit Iraqi Resident:

My claim arose at: Tikrit Iraq
(Town) (City) (Country)

My claim arose on: Sun 28 2005
Month Day Year

Proof of Ownership: Claimant's Name - 1992 KIA White plu

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): N/A, DTD 26 Sun 05, No Cause of death

Interpreter Approved:

Legal Expert Opinion: Cause of death in med rpt is Car Accident

Interpreter Approved: Caused by CF.

Witness Statement (Consistent?): 2 consistent statements from observers

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.)

Father driving from MUKASHIRA towards TIKRIT trying to get off highway & country behind him started shouting

- shouting caused vehicle to roll over. Son was sitting in front passenger seat on right side.

- After accident son was unconscious. Cowboy kept going. Civilians stopped & took son to TIKRIT hospital where he died.

- father hurt also - pains in his back

Evidence:

000833

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	\$5000
Vehicle Damages	\$5700
PERSONAL INJURY to CLAIMANT	\$1,500

Total: \$10,700

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)

\$ 11,700 local _____

(Signature of Claimant)

Subscribed before me this 24 day of September, 2005.

SJT (_____) _____
(Print Name) _____
(Signature)

Standard Form 1034
 Revised October 1987
 Department of the Treasury
 1 TFM 4-2000
 1034-121

**PUBLIC VOUCHER FOR PURCHASES AND
 SERVICES OTHER THAN PERSONAL**

VOUCHER NO.

 SCHEDULE NO.

U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION
 TF 101st ABN, 1BCT

DATE VOUCHER PREPARED

 CONTRACT NUMBER AND DATE

 REQUISITION NUMBER AND DATE

PAID BY
 DSSN: 8589
 Adam Butler, MAJ
 101st FMC
 APO AE 09393

PAYEE'S NAME AND ADDRESS
 [Redacted]
 Tikrit, Iraq

DATE INVOICE RECEIVED

 DISCOUNT TERMS

 PAYEE'S ACCOUNT NUMBER

SHIPPED FROM TO WEIGHT

GOVERNMENT B/L NUMBER

NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES <i>(Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)</i>	QUANTITY	UNIT PRICE		AMOUNT <i>(1)</i>
				COST	PER	
		Property Damage				10,000.00
TOTAL						10,000.00

(Use continuation sheet(s) if necessary) (Payee must NOT use the space below)

PAYMENT: <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE	APPROVED FOR	EXCHANGE RATE	DIFFERENCES
	= \$ 10,000.00	= \$ 1.00	
	BY 2		Amount verified; correct for
	TITLE		(Signature or initials)

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

8 NOV 05 (Date) [Redacted Signature] (Authorized Certifying Officer) CPT/FCC (Title)

ACCOUNTING CLASSIFICATION
 2162020 22-0204 P436099.22-4200 VIRQ F9203 S99999 APC 9204

PAID BY	CHECK NUMBER	ON ACCOUNT OF U.S. TREASURY	CHECK NUMBER	ON (Name of bank)
	CASH	DATE	PAYEE 3	[Redacted]
	\$ 10,000.00			

1 When stated in foreign currency, insert name of currency.
 2 If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign in the space provided, over his official title.
 3 When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John Smith, Secretary," or "Treasurer," as the case may be.

PER 000835
 TITLE