

6-1R8-417
28 Mar 02



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
Chief of Claims

000857



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

22 March 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED]; 06-IR8-417

1. **Identifying Data:** [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 28 January 2006 in Balad (Al Ishaqi), Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 13 March. 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 patrol fired on his 12 year old son, [REDACTED] killing him. A SIGACTS investigation revealed that TF 1-8 IN discovered an IED being emplaced on MSR Tampa by three local nationals. The three individuals then fled into a nearby home. The patrol opened fire on these individuals, striking one of them. The patrol conducted a search of the area and found the Claimant's son, or what remained of him, dead inside the home. The claimant's son's name appears in the SIGACT.
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." Claimant's son was killed when he was caught emplacing an IED. The claim is denied under the combat exception and for excessive AIF entanglement.
7. **Recommendation:** The claim is denied.

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

000858

TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: _____

POA/ATT: N.A.

Power of Attorney provided and interpreter approved: _____

Decedents: _____

Hometown: _____ Iraqi Resident: _____

My claim arose at: Balaw - Al-Isahaki - close to Al Farhatia police station
(Town) (City) (Country)

My claim arose on: Jan 28 06
Month Day Year

Proof of Ownership: _____

VIN Match: N.A.

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): bullets in stomach, frogs in the head

Interpreter Approved: match, assisting photos

Medical Report/Legal Expert Opinion Dead kid

Interpreter Approved: damages to house, assisting photos

Witness Statement (Consistent?): w.1 father of claimant / saw the accident

Interpreter Approved: match

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.)

claimant wasn't home @ that day, he went to his farm, he came back and found his house was damaged and his kid has been killed, his father told him and the other people who live next to his house that the C.F. shoots @ his house, C.F. tank shot @ his house and cause damages

Evidence: witness, photos, Death C., leg exp

000859

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>
\$ 7500 lost of kid	
\$ 5000 cost of damages to the house	
\$12,500	

Total: \$12500

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

\$ 12500 local



(Signature of Claimant)

Subscribed before me this 17 day of March, 2006.



(Print Name)



(Signature)



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: Waiver of Notification

1. I, the Claimant, hereby agree that if I fail to provide any requested evidence to the CMOC Claims Office within sixty (60) days of the date below or to request a written extension of the sixty (60) day period, such inaction shall constitute an affirmative act of abandonment of my claim, and my claim shall be administratively closed in accordance with the provisions of DA PAM 27-162, paragraph 13-3(f).

2. I further agree that if I wait longer than sixty (60) days from the date below to return to the CMOC to receive notification of the final disposition of my claim or to request a written extension of the sixty (60) days period, this failure will result in denial of the claim. The claim will be administratively closed in accordance with the guidance above.

[REDACTED]

[REDACTED]

Claimant Signature: [REDACTED]

Sworn before [REDACTED], on 13 day of March 2006.

000861