



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1<sup>ST</sup> BRIGADE, 3<sup>RD</sup> INFANTRY DIVISION (FORWARD)  
TASK FORCE BAND OF BROTHERS, OPERATION IRAQI FREEDOM  
FORWARD OPERATING BASE SPEICHER  
APO AE 09393

AFZP-VA-HQ

23 January 2006

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED]  
(Claim Number 05-IA3-1733)

1. On 1 May 2004, [REDACTED] son was killed when a UXO detonated by U.S. Forces.
2. I certify that funds are available from the CERP to pay [REDACTED] in the amount of \$2500.00. This is a condolence payment.
3. The request to pay [REDACTED] in the amount of \$2500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]  
CPT, EN  
Project Purchasing Officer

000939



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

20 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] and [REDACTED], 06-IA3-1733

- 1. Identifying Data:** [REDACTED] and [REDACTED]
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 1 May 2004 in Al Dujail, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$5,500 on 3 Sept. 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:** Claimant alleges that a CF dropped a bomb in his orchard. The bomb allegedly did not explode upon impact. Claimant's son, [REDACTED], went to investigate and was killed when the UXO detonated. Claimant's cousin, [REDACTED], was seriously injured in the explosion. A couple of hours later, CF allegedly came to the orchard and took the body and Claimant to LSA Anaconda for medical treatment. In support of their claims, the Claimants have offered witness statements, medical records from LSA Anaconda, and police and judicial reports.
- 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, an airstrike clearly constitutes combat activity. While unfortunate, this claim is precluded from compensation under the combat exception.
- 7. Recommendation:** The claim is denied

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

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# Claims Form

To: United States Army Foreign Claims Commission.

From: Name: \_\_\_\_\_

POA/AT: \_\_\_\_\_

Power of Attorney provided and interpreter approved: \_\_\_\_\_

Decedents: \_\_\_\_\_

Hometown: Al Dujayl

Iraqi Resident: \_\_\_\_\_

My claim arose at: \_\_\_\_\_

(Town)

(City)

(Country)

My claim arose on: \_\_\_\_\_

Month

Day

Year

Proof of Ownership: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

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

DND - 1 May 04

Interpreter Approved: \_\_\_\_\_

Legal Expert Opinion: Police & Judges Reports

Interpreter Approved: \_\_\_\_\_

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

Interpreter Approved: parties

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.)

Dec on his to visit his Aunt. CF airplane dropped a large box from the plane. KAISAR & one of his Cousins ran to the area to see what it was. "Box" blew up 15 minutes after it landed.

- A couple hours later American forces went to scene (notified by ICC). CF took body to American hospital at LSA ANHCONDA (already dead).

- Cousin was still alive when transported to LSA (Award Ali Muzzein).

Evidence: Med records (state IED explosion)

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\* Doesn't have paperwork from LSA for release of body to family - only

Now Atty saying body was taken to Iraq Hosp NOT LSA. Will bring autopsy

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	\$7500
Personal Injury	\$2000


Total: \$9500

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)  
\$ 5500 local \_\_\_\_\_

  
(Signature of Claimant)

Subscribed before me this 3<sup>rd</sup> day of September, 2005.

Sgt   
(Print Name)

  
(Signature)