



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, FOB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

28 November 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 06-IA3-111

1. **Identifying Data:** [REDACTED] by Attorney [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on July 20, 2005 in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 22 November 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 and proper manner.
5. **Facts:** Claimant alleges CF killed the claimant's husband, Hussin Ali Jassim, when the CF fired at the victim's car. Victim's body of deceased to Tikrit hospital by Iraqi Police.
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, there is a presumption of combat activity when CF fire weapons. Additionally, there is insufficient evidence to show any wrongful act attributable to CF. A SIGACTS investigation revealed no activity at that location for that day. Accordingly, this claim is precluded from payment by combat exclusion and insufficiency of evidence.
7. **Recommendation:** This claim is denied.

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

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6-143-111
29 NOV 05



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE, 3D INFANTRY DIVISION (FORWARD)
TASK FORCE LIBERTY, OPERATION IRAQI FREEDOM
FORWARD OPERATING BASE SPEICHER
APO AE 09393

DHFT-JA

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 Tikrit Claims Office at DNVT 584-1084.

████████████████████
CPT, FCC
Foreign Claims Commissioner

001556

Claims Form

To: United States Army Foreign Claims Commission

From: Name: _____

POA/ATT: _____

Power of Attorney provided and interpreter approved: — Show Original / have Copy

Decedents: _____

Hometown: _____

Iraqi Resident: _____

My claim arose at: _____

(Town)

Tikrit

(City)

(Country)

My claim arose on: _____

Month

Jun

Day

20

Year

05

Proof of Ownership: _____

Interpreter Approved: _____

NA

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

Has Copy (will bring original) very unclear copy
Consistent with claim
Needs to Bring Original

Legal Expert Opinion: _____

Interpreter Approved: _____

W₁ - brother - (WAS told) that deceased was shot by CF Company
went to hospital to look for

Witness Statement (Consistent?): _____

Interpreter Approved: _____

W₂ - local from same village heard of incident, went to hospital

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.)

Wrongful Death

Claimant's Spouse, brings claim for wrongful death

Spouse ~~was~~ ^{informed} / judge that husband was missing
for two days / later learned he had been shot by C.F. Company

He was ~~in~~ in car near IP, C.F. shot at car
& killed him.

IP took body to Tikrit hospital informed wife w/ she
went to find.

Evidence: _____

Diagram / Death Certificate

001537

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>
- Death of claimant's husband -	

Total: ~~2500~~ \$2500

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

NA

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)

\$ 2500 local

[Signature]
(Signature of Claimant)

Subscribed before me this 22 day of Nov, 2005.

CPT ~~_____~~
(Print Name)
~~_____~~
(Signature)