



DEPARTMENT OF THE ARMY
HEADQUARTERS, 3rd BRIGADE COMBAT TEAM
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

1 May 2006

CP3AA S60940401-17
MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED] (Claim
Number 06-IR8-552)

1. On 11 August 2005, [REDACTED] was shot at by Coalition Forces as she and her husband approached a hasty checkpoint. She was shot in the left side of her head and is now blind in one eye and had to have reconstructive surgery on that side of her face.
2. I certify that CERP funds are available to pay [REDACTED] in the amount of \$2,500.00. This is a condolence payment.
3. The request to pay [REDACTED] in the amount of \$2,500.00 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

001547



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

AFZB-JA-C

16 April 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 6-IR8-552

1. **Identifying Data:** [REDACTED], Samarra, Iraq, by attorney Ahmed Malik Rashed.
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 11 August 2005, in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$3,000.00 on 8 April 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 filed in a timely manner.
5. **Facts:** Claimant alleges that CF were dismounted (standing outside their vehicles on the roadside). As the car that he was in began to pass them, the claimant alleges that the CF started shooting at the car and that claimant's wife was fatally shot in the head. The small arms fire allegedly also resulted in a lost finger and a scarred abdomen of another passenger in the car. (See companion Claim # 6-IR8-551.) The claimant provided a death certificate and a witness statement to support his claim. A SIGACTS investigation of the relevant time and place revealed that the car's driver failed to stop at a CF checkpoint, thus resulting in an escalation of force.
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, the driver's failure to stop at the checkpoint necessitated an escalation of force, a combat activity, and thus precludes compensation.
7. **Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
FCC

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: _____

POA/ATT: _____

Power of Attorney provided and interpreter approved: kept copy

Decedents: _____ (wife of claimant)

Hometown: _____ Iraqi Resident: _____

My claim arose at: _____
(Town) Samarra (City) (Country)

My claim arose on: _____
Month Aug Day 11 Year 05

Proof of Ownership: _____

VIN Match: _____

Interpreter Approved: NA

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

Shot in her head / (kept copy)
Consistent w/ report Samarra Hospital 33y/o F

Interpreter Approved: yes

Medical Report/Legal Expert Opinion: _____

Interpreter Approved: _____

Witness Statement (Consistent?): Same as 6-128-551 (add father - same story)

Interpreter Approved: Yes

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.)

See Facts from 6-128-551

vehicle was shot @ checkpoint, driver (male) lost finger & was shot in stomach, wife is this claimant for this claim

Evidence: Death Cert / witness /

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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

Total \$3000

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

\$ 3000

local

(Signature of Claimant)

Subscribed before me this 9 day of April, 2006

(Print Name)

(Signature)

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