

6-128-555
16 Apr 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 Signature]

CPT, JA
Chief of Claims

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10 April 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED]; 06-IR8-555

1. **Identifying Data:** [REDACTED] by POA [REDACTED]
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 2 October 2005 in Samarra, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 9 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 properly filed in a timely manner.
5. **Facts:** The Claimant alleges that his mother and daughter were killed while they were standing near a garage which was used for IED making. CF allegedly came and shot the decedants in the head and chest. A SIGACTS investigation revealed that CF and Iraqi MOI conducted a series of hasty raids in Samarra on the day of the incident. Six target houses were raided and several AIF were detained. There is no mention of any civilian casualties in the SIGACT.
6. **Opinion:** There is insufficient evidence to prove this claim. There is no record of CF having killed any civilians during the raid. A more likely explanation is that Iraqi MOI were responsible. Even if the killing had been documented, the claim would be denied under the combat exception. "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." Illuniation rounds serve a combat purpose, to achieve visibility over battlespace. Here, the claimant's damage was caused during a raid, a combat activity.
7. **Recommendation:** The claim is denied.

[REDACTED]
CPT, JA
Claims Judge Advocate

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: Saw Original

Decedents: X2 Mother:

Daughter:

Hometown: _____ Iraqi Resident: _____

My claim arose at: Samarra Iraq

(Town) (City) (Country)

My claim arose on: October 2 2005

Month Day Year

Proof of Ownership: _____

VIN Match: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): [REDACTED] born: 1987, Sep 24

[REDACTED] born: 1960 - Nov 10

Interpreter Approved: _____

Medical Report/Legal Expert Opinion: _____

Interpreter Approved: _____

Witness Statement (Consistent?):

2 Oct 05 2 Mother + daughter shot by CF in the head chest + body 1000 while standing in front of home
 Live Samarra shot by CF standing front of the home

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.)

[REDACTED] (daughter) [REDACTED] + (Mother) [REDACTED]
were standing in the front
of their home in Samarra about
500 meters from a garage that allegedly
makes IEDs and were allegedly
shot by CF in the head + chest.

Evidence: Diagram, Death Certificates x2,

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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

<u>Item</u>	<u>Amount</u>

Total: _____

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

\$ 5000 local _____



(Signature of Claimant)

Subscribed before me this _____ day of _____, 200__.



(Print Name)

(Signature)