

6-IA3-108
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.

[Redacted Signature]
CPT, FCC
Foreign Claims Commissioner

001593

MEMORANDUM FOR RECORD

SUBJECT: Claim of [REDACTED] 6-IA3-108, UP AR 27-20, Chapter 11

1. IDENTIFYING DATA:

- a. CLAIMANT: [REDACTED] Iraqi residents.
- b. PRESENT ADDRESS: Bayji, Iraq.
- c. ATTORNEY: [REDACTED]
- d. DATE OF INCIDENT: 24 September 2005.
- e. PLACE OF INCIDENT: Bayji
- f. DATE AND AMOUNT OF CLAIM: 22 November 2005, \$9,000.
- f. SUMMARY: Negligent shooting
- g. COMPANION CASES: None

2. JURISDICTION: This claim was filed by a Iraqi residents. They are proper party claimants, and the claim is cognizable under the Foreign Claims Act (10 U.S.C. § 2734) and Chapter 10, AR 27-20. This claim was properly presented, contains factually specific allegations, is dated, states a sum certain and is signed by Claimant.

3. FACTS: On September 24, 2005, inside the "Industrial Town" outside of Bayji, the following persons were working inside a refinery that town. [REDACTED] and [REDACTED]. The individuals heard shooting outside the industrial area, but continued with their work. About half an hour later, CF arrived on the scene. The individuals tried to leave, but not before [REDACTED] tried to push his car into the garage to lock it up. As he was attempting to push the car into the garage, CF allegedly fired at him, wounding him. The other individuals were waiting inside a car nearby. CF fired at these individuals killing all three. The claimants are the wounded [REDACTED] and the wives of the three men who were killed inside the car. During the interview, the Claimant's attorney said that CF may have mistakenly attacked the car thinking that the decedents were AIF.

AFZB-JA-C

Claim of [REDACTED]

[REDACTED] 6-IA3-108, UP AR 27-20, Chapter 11

4. LEGAL ANALYSIS: Under AR 27-20, paragraph 10-3, Claims arising from the death of enemy combatants are not compensable under the Foreign Claims Act. A SIGACTS investigation revealed that an IA patrol was engaged with SAF and RPG at this location. TF 1-1Q3 responded and conducted cordon and search operation. SIGACTS list the decedants as AIF killed as they tried to escape. SIGACTS also list Fawzi as also being AIF.

5. DAMAGES: The claimants have claimed damages associated with the wrongful death of their respective husbands in the amount of \$2,500 per man. [REDACTED] has claimed \$1,500 for his personal injuries. In support of the claim, the Claimants have presented an original death certificates, two witness statements from claimant's co-workers, and hospital records from the Tikrit hospital.

6. RECOMMENDATION: Based upon the investigation by this FCC, it is reasonable to conclude that the CF activity can be characterized as combat activity. I recommend this claim be denied.

[REDACTED]
CPT, JA
FCC IT6

Claims Form

Wives

To: United States Army Foreign Claims Commission.

From: Name:

POA/ATT:

Power of Attorney provided and interpreter approved:

Decedents:

Hometown:

Iraqi Resident:

My claim arose at: Industrial town outside Baiji (Town) (City) (Country)

My claim arose on: 24 Sept. 05 (Month) (Day) (Year)

Proof of Ownership:

Interpreter Approved: N/A

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

Interpreter Approved:

Legal Expert Opinion:

Interpreter Approved:

Witness Statement (Consistent?): 2 (2) workers - same story (Dworker - CF Arrived & started shooting randomly)

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.)

4 people (c) work @ industrial town outside Baiji. They hear shooting. CF soldiers & vehicles arrived on scene w/ a Bradley vehicle, (about 1/2 hr. later after they hear shooting).

C says Americans may have thought there were bad guys inside the area.

C tried to push the car into the garage to lock it up as he pushed the car into garage, he was shot.

... & ... were in other vehicle, & were killed by CF fire.

Evidence: 2 witness affidavits, original death certs. POA's for all, Tikrit hospital reports.

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: [REDACTED]	2,500 2,500
Wrongful death: [REDACTED]	2,500 2,500
Wrongful death: [REDACTED]	2,500 2,500
PI: [REDACTED]	1,500 1,500

Total: ~~7,000~~ \$9,000

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)

\$ ~~7,000~~ 9,000 local _____

[REDACTED]
(Signature of Claimant)

Subscribed before me this 22 day of NOV, 2005.

[REDACTED]
(Print Name)
[REDACTED]
(Signature)