



DEPARTMENT OF THE ARMY
Office of the Command Judge Advocate
1st Brigade Combat Team, 101st Airborne Division (AASLT)
FOB Warrior, Kirkuk, Iraq, APO AE 09335

REPLY TO
ATTENTION OF:

AFZB-KA-CJA

17 MAR 06
3 March 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IO6-T0303

1. Claimants name and address: [REDACTED], Hawijah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 13 January 2006, near Hawijah, Iraq.
3. Amount of claim and filing date: Claimant filed a claim for \$2,800 on 27 February 2006.
4. Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant on reconsideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for personal injuries and the wrongful death of her sister, [REDACTED].
5. Facts:
 - a. [REDACTED] claims that on 13 January 2006, she was in the vehicle, driving home from their Buffalo farm when Coalition Forces opened fire on them as they approached the groceries bazaar. She was injured (shrapnel wounds to extremities), her sister, [REDACTED] was killed and her two sisters were injured as a result of the incident.
 - b. There was a witness statement, medical reports, a death certificate, a power of attorney, copies of ID cards and a note from the unit submitted with the claim.
 - c. Investigation by the unit showed that the incident was a direct result of combat operations.

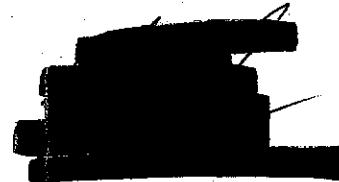
6. Opinion:
 - a. In order to form a basis for a claim under the FCA, the incident has to occur outside of the United States and be from either non-combat activities of the U.S. Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.
 - b. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. This incident is a result of combat operations.

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AFZB-KA-CJA

SUBJECT: Claim of Layla Salman Naji, 06-IO6-T0303

7. Action: This claim is not payable under the FCA for the above mentioned reasons.
Consequently this claim for \$2,800 is denied.



CPT, JA
Foreign Claims Commissioner

061139

OFFICE OF THE COALITION PROVISIONAL AUTHORITY
(OPCA) PROJECT WORKSHEET

TYPE OF OPCA PROJECT: Regional Level Quick Impact Fund

MILITARY UNIT COORDINATING PROJECT: HHC/I¹ BCT/I01² Abn Div, Judge Advocate

MILITARY UNIT CONTACT INFO FOR PROJECT

NAME: Captain [REDACTED]

PHONE: VOIP 242-2624

NIPR EMAIL: [REDACTED]

NAME THE PROJECT: Condolence Payment for the personal injuries to [REDACTED]
(reference Claim No. 06-106-T0303)

PROJECT LOCATION: Hawijah, Iraq

PROJECT DESCRIPTION: Condolence Payment to [REDACTED]

DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION: Condolence payments are cash payments to local nationals, or to their family members, who suffer death or injury or property damage caused by US forces in the performance of official duty. US forces make Condolence payments without reference to fault by either the local national or US forces, as an expression of sympathy and good will and in the best interest of the US Government.

COST (U.S. Dollars) AND JUSTIFICATION: \$1,000.00 [REDACTED] and her father and sisters were mistakenly fired on by coalition forces, resulting in personal injuries.

[REDACTED] does not have a cognizable claim under the Foreign Claims Act (Chapter 10, AR 27-20) because the personal injuries were incident to combat.

NAME AND POSITION OF IRAQI WHO WILL ASSUME RESPONSIBILITY FOR THE COMPLETED PROJECT (Responsible Iraqi): [REDACTED]

ESTIMATED DAYS REQUIRED TO COMPLETE PROJECT: 1

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