

DEPARTMENT OF THE ARMY HEADQUARTERS, THIRD INFANTRY DIVISION (FWD) OFFICE OF THE STAFF JUDGE ADVOCATE APO AE 09352

REPLY TO ATTENTION OF:

AFZP-JAC

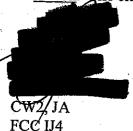
5 December 2005

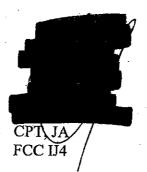
MEMORANDUM FOR RECORD

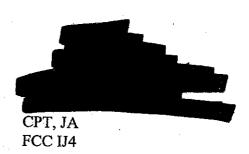
SUBJECT: Action on Claim of

- 1. <u>Facts</u>. On 3 May 05, claimant's father was driving in 9 Nissan when he was shot and killed by U.S forces applying escalation of force measures at a checkpoint.
- 2. Opinion. In order to form a basis for a claim under the FCA, it must be shown that the incident occurred outside the United States, and that it was caused by noncombatant activities of the United States Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the Armed Forces. In this case, the death resulted from the combat activities of U.S. forces. Accordingly, compensation is barred as a matter of law.
- 3. Authority. The Foreign Claims Act (10 U.S.C. § 2734) as implemented by AR 27-20, Chapter 10.

4. Action. The claim is denied.







DEPARTMENT OF THE ARMY HEADQUARTERS AND HEAQUARTERS COMPANY 2D BRIGADE, 3D INFANTRY DIVISION —FOB LOYALTY, APO AE —09380

REPLY TO ATTENTION OF:

AFZP-VB-JA

28 November 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of

1. Claimant's name and address:

Mameila,

Baghdad, Iraq.

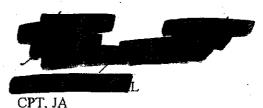
- 2. Date and place the incident occurred giving rise to the claim: Incident occurred on 3 May 2005, at Check Point 9, Al-Masthal, 9 Nissan, Baghdad, Iraq.
- 3. Amount of claim and date it was filed: Claimant filed a claim in the amount of \$30,000.00 on 15 November 2005.
- 4. Claim considered under the Foreign Claims Act and Chapter 10, AR 27-20; claimant filed for death of claimant's father and damage to vehicle from small arms fire caused by combat involving Coalition Forces.

5. Facts:

- a. On 3 May 2005, the claimant's family vehicle was shot at by Coalition Forces as it approached a check point.
 - b. The claimant's father was injured during the shooting and later died.

6. Opinion:

- a. In order to form a basis for a claim under the FCA, it must be shown that the incident occurred outside the United States, and that it was caused by non-combat activities of the United States Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the Armed Forces.
- b. The incident that resulted in the death of the claimant's father and damage to the vehicle was an escalation of force.
 - c. The claim is meritorious but was the result of combat operations.
- d. The claimant has filed three other claims for this incident in the amounts of \$1,280.00, \$10,000.00, and \$1,500.00. All three claims were denied on 25 November 2005 because they were the result of combat operations.
- 7. Recommended Action: Disapprove the claim.



Single Member FCC

Claims form Us foreign commission

	Claim# 1-068-5
Claimant name—	
Address	Sameila
Sec/-St/-St/	-H/
Relation ship The Victim's Don Dob d/m/y 2	L, Nov. 1968 Age 37
A citizen and national of /	may 1
A permanent resident /	Bagkoleid
Type claim (circle which	applied)
1-Vehicle	
2-Personal property	
3-Real estate 4-Personal injury	Reconsideration
5-Death	Reconsideration
Have you filed acclaim before (circle which a	pplied) YES OR NO
Date incident occurred :/D/3 rd /M/M	ay N 2005
Place incident occurred:/AlMashta	J.
SITUATION ble was driving his	
Patrol opened fire and hil	ledhim and caused damage
to his car.	
List in detail amount of property damage and item property damage personal injury: (attack bills and Item	l receipts, if applicable).
He asks reconsideration	
TOTAL AMOUNT: US DOLLAR_30,000	100 Thirty thousand 4.5.D
IRAQI DINAR	ID
Today date: D/ 9 th M/ Nov. Y/2005	
Translator name	
Signature	