



DEPARTMENT OF THE ARMY
Headquarters, 3rd Brigade Combat Team
3rd Infantry Division
FOB Warhorse, Iraq
APO AE 09397

REPLY TO
ATTENTION OF:

AFZP-VI-JA

30 May 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 05-IA5-731

1. Claimants name and address: [REDACTED] af, Ad-Duluiyah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 23 February 2005 in Ad-Duluiyah, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$25,000 on 7 May 2005.
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 compensation for son's death.
5. Facts:
 - a. Claimant says that U.S. forces killed his son. Artillery hit his son and killed him instantly
 - b. There were pictures included in the submitted claim.
6. Opinion:
 - a. In order to form a basis for a claim under the FCA, the incident in question must have arisen outside the United States. In addition, the incident must be caused by either non-combat activities of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

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AFZP-VI-JA

SUBJECT: Claim of Hussein Ali Hamash Khalaf, 05-IA5-731

- 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. Based on the facts and circumstances, artillery was aimed for POO sites. There were no artillery attacks on the day in question.
- 7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$25,000 is denied.

[REDACTED]
[REDACTED]
[REDACTED]
CPT, JA
Claims Judge Advocate

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: Al Duloyah

Address: Iraq, Balad, Duloyah

I am

- a. A citizen and national of: Iraq
- b. A permanent resident of: Iraq
- c. Employed by: _____
- d. Check one () An insurer () Not an insurer
- e. Check one () A subrogee () Not a subrogee

I hereby make a claim against the United States Government for damages or injuries caused by: (Name, Organization, Military Department, Address, Telephone Number)

American Forces in Balad

The property damaged is owned by: (If the claim is made as an agent, parent, or guardian, attach a power of attorney or other evidence of authority and fill in the form below for party sustaining the damage or injuries.)

My claim arose at: Al Duloyah Balad Iraq
(Town) (City) (Country)

My claim arose on: Feb 23 2005
Month Day Year

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.)

American Forces killed my son while they were attacked
the location which my son where in it while my son was
in his way to his job result to wounded him then he died
in the way to the hospital.

Describe nature and extent of property damage or personal injury sustained as a result of the above incident.

Large Damages

001404

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

killed my son "AD:1" \$25,000.00

Total: \$25,000.00

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)

\$ 25,000.00 local 4000000 Iraqi Dinars

(Signature of Claimant)

Subscribed before me this 7 day of May 2005

(Print Name)

(Signature)

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