



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

14 June 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 05-IA5-694(Reconsideration)

1. Claimants name and address: [REDACTED] Baqubah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 11 February 2005 in Baqubah, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$15,000.00 on 27 April 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 the wrongful death of the claimant's husband.
5. Claimant's Allegations:
 - a. Claimant alleges that her husband was shot and killed while he was at the Diyala Police Station.
 - b. There were witness statements included in the submitted claim.
 - c. There were additional witness statements added to the reconsideration of the claim.
6. Investigator's 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.

001410



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

Reconsideration

11 May 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-JA5-694

1. Claimants name and address: [REDACTED], Baqubah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 11 February 2005 in Baqubah, Iraq - 7 pm was driving pickup near JCL
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$15,000.00 on 27 April 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 the wrongful death of the claimant's husband.
5. Claimant's Allegations:
 - a. The claimant alleges that her husband was shot and killed while he was at the Diyala Police Station.
 - b. There were witness statements included in the submitted claim.
6. Investigator's 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.

001431

AFZP-VI-JA

SUBJECT: Claim of Balol Ahmed Saeid, 05-IA5-694

- 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. Additionally, the reasons for denial of this claim are included in paragraph c.
- c. The research conducted pertaining to this claim reveals that no activity of this type happened on the date in question. The claim investigator spoke to personnel working at the JCC where the incident is alleged to have occurred. No person working there had any recollection of an incident of this type. Additionally, there was no Sigact or Green 1 reported to the Brigade with this type of incident included.

7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$15,000 is disapproved.

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