



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

29 July 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA5-692 (Reconsideration)

1. Claimants name and address: [REDACTED] Kanan, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 14 February 2005 in Kanan, Iraq
3. Amount of claim and filing date: Claimant had previously filed a claim in the amount of \$5,000 on 28 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 death of claimant's son and damages to the vehicle.
5. Facts:
 - a. Claimant alleged that his son was driving near FOB Gabe when U.S. forces suddenly opened fire on his vehicle. Claimant's son was killed and the vehicle has been damaged.
 - b. There were witness statements, pictures, police report, damage report, and medical examiner's report included in the submitted claim; for reconsideration, the claimant submitted no additional evidence.
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 activity of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

000618

AFZP-VI-JA

SUBJECT: Claim of [REDACTED] ni, 05-IA5-692

- 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.
 - c. The SIGACT reports do not corroborate claimant's version of the events, so there is no evidence to suggest that U.S. Forces were responsible for claimant's damages. The claimant also submitted no additional evidence for reconsideration.
7. Recommended Action: This claim is not payable under the FCA for the above-mentioned reasons. Consequently, this claim of \$5,000 for reconsideration is denied.

[REDACTED]

CPT, JA
Claims Judge Advocate

000619



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

10 May 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] ni, 05-IA5-692

1. Claimants name and address: [REDACTED] Kanan, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on February 14th 2005 in Kanan, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$5,000 on 28 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 death of claimant's son and damages to the vehicle.
5. Facts:
 - a. Claimant alleged that his son was driving near FOB Gabe when U.S. Forces suddenly opened fire on his vehicle. Claimant's son was killed and the vehicle has been damaged.
 - b. There were pictures, witness statements, police report, damage report and medical examiner's report 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 activity of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

000620

AFZP-VI-JA

SUBJECT: Claim of [REDACTED], 05-IA5-692

- 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, the SIGACT reports that U.S. forces did not kill claimant's son nor cause the damage to the vehicle.
7. Recommended Action: This claim is not payable under the FCA for the above-mentioned reasons. Consequently this claim for \$5,000 is denied.

[REDACTED]

CPT, JA
Claims Judge Advocate

000621

CLAIMS FORM

To: United States Army Foreign Claims Commission.

From: Name: ~~Handwritten name~~

Address: Kana

I am

- a. A citizen and national of: _____
- b. A permanent resident of: _____

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

The property damaged is owned by: _____

My claim arose at: Kana (Town) (City) (Country)

My claim arose on: Feb 14 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.)

Claimant's son was driving near FOB Gabe when US Forces opened fire on him, killing him and damaging the vehicle.

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
loss of life	
damage to vehicle	

Total: _____

I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$ ~~3,000~~ 5,000 local _____

~~Handwritten signature~~

(Signature of Claimant)

Subscribed before me this 28 day of April, 2005.

(Print)

(Signature)

000622