



REPLY TO
ATTENTION OF:

AFZP-VI-JA

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

7 August 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA5-1100

1. Claimants name and address: [REDACTED] Ad-Duluiyah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 20 February 2005 in Ad-Duluiyah, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$15,000 on 9 July 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 property damage.
5. Facts:
 - a. Claimant says that U.S. forces shot him while engaging AIF
 - b. There were photographs and a damage 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 activities of the United States 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. Unfortunately, the claimant was injured in a firefight and this claim cannot be paid as it is combat-related.
7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$15,000 is denied.

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

000700

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

Address: [REDACTED]

I am

Iraq, Samara, Motesim

- 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

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: Motesim (Town) Samara (City) Iraq (Country)
My claim arose on: Feb (Month) 20 (Day) 2005 (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.)

A Fighting happened between terrorists and American forces very closed to Al Motesim police station and because my son "[REDACTED]" has a bad lucky he was in this location at that time and he wounded at these actions result to get his death.

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

Large Damages

000701

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

Large Damage

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 " [redacted] " \$25,000.00

Total: 25000

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)

\$ 25000
15,000

local 40000000 Iraqi Dinars

(Signature of Claimant)

Subscribed before me this ___ day of ___, 200__.

(Print Name)

(Signature)

000702