



DEPARTMENT OF THE ARMY
HEADQUARTERS, 42d INFANTRY DIVISION (Mechanized)
OPERATION IRAQI FREEDOM (FOB LIBERTY)
APO AE 09308

DHFT-JA

14 May 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 05-IA3-1047

1. **Identifying Data:** [REDACTED], Tikrit, Iraq
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 31 March 2005, in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 14 May 2005.
4. **Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was filed in a timely manner.
5. **Facts:** Claimant's son and a friend were fishing, in a small boat, 15 kilometers north of Tikrit on the Tigres river at 2200 hours on 31 March 2005. The claimant and his son had fished the Tigres many nights recently, but the father did not join his son this night. U.S. Forces helicopters were flying overhead, like they usually did and there were no problems. A U.S. Forces HMMWV patrol pulled up to the beach near where they were fishing. The patrol had spotted and destroyed a boat earlier in the evening, that had an RPG in it. They set off an illumination round and then opened fire. The claimant's only son was shot and killed. His friend was injured, but managed to get the boat to the other side of the river. At the small village across the river they received medical help and were taken to the hospital. But, it was too late for the claimant's son. The claimant and his son were huge supporters of democracy and up to this day held meetings and taught their friends about democracy. The claimant provided two witness statements, medical records, a death certificate, photographs and a scene sketch, all of which supported his claim.
6. **Opinion:** There is sufficient evidence to indicate that U.S. Forces intentionally killed the claimant's son. Unfortunately, those forces were involved in security operations at the time. Therefore, this case falls within the combat exception.
7. **Recommendation:** The claim is denied.

[REDACTED]
[REDACTED]
CPT, JA
Chief, Claims

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Claims Form

To: United States Army Foreign Claims Commission

From: Name: [Redacted]

POA/ATT:

Power of Attorney provided and interpreter approved;

Decedents: SON: [Redacted] (21yo)

Hometown: Baiji Iraqi Resident:

My claim arose at: Tikrit Iraq (Town) (Country)

My claim arose on: 31 March 2005 (Month) (Day) (Year) Thursday

Proof of Ownership:

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): OK, shots to body, 20yo, 31 March 05

Interpreter Approved: Hospital Records - fragments to chest & abdomen

Legal Expert Opinion:

Interpreter Approved:

Witness Statement (Consistent?): W. (Friend of Son) - consistent, adds in illuminating round

Interpreter Approved:

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 fishing in Tigris 15 km north of Tikrit. One person with him.

A helicopter always watches them when they fish. The helicopter watched this night & didn't bother them.

A Humvee patrol shot son from the beach killing him. His friend was injured. Friend took him to other side of river village who took him to hospital.

Evidence: *Scene sketch by claimant, photos

Hospital Records
Death Certs
Med Records

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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

SON'S Death = \$5000

Total: \$5000

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)

\$

5000

local

(Signature of Claimant)

Subscribed before me this 14 day of May, 2005.

(Print

(Signature)

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