



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

DHFT-JA

24 June 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA3-1187

- 1. Identifying Data:** [REDACTED], Al Dujail, Iraq
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 18 March 2005, in Al Dujail, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 4 June 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 alleges that her husband was killed by U.S. Forces. The claimant was driving his 1990 BMW from Balad to Al Dujail. U.S. Forces in the area were attacked by AIF forces. The U.S. Forces returned fire and the claimant's husband was shot. U.S. Forces took him to a U.S. hospital in Balad, where he died. The claimant provided corroborating witness statements, photographs, U.S. medical records and a death certificate. There was no report of this event in division records.
- 6. Opinion:** There is sufficient evidence to indicate that U.S. Forces killed the claimant's husband. Unfortunately, those forces were responding to an attack at the time. Therefore, this case falls within the combat exception.
- 7. Recommendation:** The claim is denied.

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

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Claims Form

To: United States Army Foreign Claims Commission

From: Name: [REDACTED]

POA/ATT: [REDACTED]

Power of Attorney provided and interpreter approved: Verified by DVRAJED

Decedents: [REDACTED] - (CLAIMANTS spouse)

Hometown: Al Dujayl

Iraqi Resident:

My claim arose at:

Al Dujayl Iraq
(Town) (City) (Country)

My claim arose on:

MAR 13 2005
Month Day Year

Proof of Ownership:

Doc is a different name - Will bring CONTRACT

Interpreter Approved:

1990 BMW

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): DA 3894 GSWS to head

Interpreter Approved:

Legal Expert Opinion: See medical reports

Interpreter Approved:

Witness Statement (Consistent?):

2 consistent statements

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.)

Decedent driving from Balad to Dujayl. CF shot
at by ATF. Claimant pulled over to roadside.
Decedent shot by US forces, while wounded taken to
US Hospital at Balad then died at hospital.
- US forces on road during
fire with ATF.

Evidence: Photos - Shows Damage to passenger window only

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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
WITNESS DEATH	\$ 5,000

Total: \$ 5,000

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)

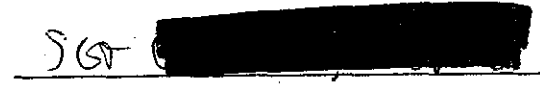
I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$ 5000 local _____



(Signature of Claimant)

Subscribed before me this 4 day of JUN, 2005.



(Print Name)



(Signature)

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