



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

DHFT-JA

4 July 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA3-1407

1. **Identifying Data:** [REDACTED], Tikrit, Iraq
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 27 May 2005, in Tikrit, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,000 on 2 July 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 his son was killed by U.S. Forces. Claimant's son is a taxi driver. Claimant was in downtown Tikrit, when a VBIED blew up by the mail office. U.S. Forces arrived at the scene and started shooting. Claimant's son's was shot and killed and his vehicle was shot and burned. The claimant provided a corroborating witness statement, photographs, an autopsy report and a police report. There was no report of this incident in Division records.
6. **Opinion:** There is some evidence to indicate that U.S. Forces killed the claimant's son. 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]
CPT, JA
Chief, Claims

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Claims Form

To: United States Army Foreign Claims Commission

From: Name:

POA/ATT:

Power of Attorney provided and interpreter approved:

Decedents:

Hometown:

Iraqi Resident:

My claim arose at:

My claim arose on:

(Town)

Month

Day

(City)

(Country)

Year

Proof of Ownership:

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations):

Interpreter Approved:

Legal Expert Opinion:

Interpreter Approved:

Witness Statement (Consistent?):

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)

CS son a box Driver
USIBD blew up near Tikrit Mail office
US Forces arrive and start shooting
US forces hit CS son's car, car burned
son was killed, Bullets killed him

Evidence:

Photos, autopsy (CS son 27 May 05) (bleeding), sketch

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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

Death at sea

Total: 4000

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)

\$ 4000 local

[Redacted Signature]

(Signature of Claimant)

Subscribed before me this 2 day of July, 2003

[Redacted Name]

(Print Name)

[Redacted Signature]

(Signature)

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