



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

DHFT-JA

6 June 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 05-IA3-990

1. **Identifying Data:** [REDACTED] Mukashifa, Iraq
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 13 March 2005, in Mukashifa, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,700 on 4 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 alleges U.S. Forces shot and killed his father and damaged his vehicle. The claimant's father was driving the from Samarra to Tikrit, when he was passed by a U.S. Forces convoy. A soldier in the last vehicle in the convoy shot the claimant's father through the vehicle. The convoy stopped, contacted the Iraqi police, who transported the claimant's father to the hospital, where he died three days later. The claimant provided photographs, medical records, a death certificate, ownership documents for the vehicle and a police report. The incident was not found in a search of division records. A legal expert report estimated the damages to the vehicle at \$1,200.
6. **Opinion:** There is sufficient evidence to indicate that U.S. Forces killed the claimant's father and damaged his vehicle. However, those forces were involved in security operations at the time. This case falls within the combat exception.
7. **Recommendation:** The claim is denied.

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

001396

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: _____

POA/ATT: _____

Power of Attorney provided and interpreter approved: - Will bring in next visit

Decedents: _____

Hometown: _____

Iraqi Resident: _____

My claim arose at: _____

MUKASHIFA

IRAQ

(Town)

(City)

(Country)

My claim arose on: _____

MAR

13th

2005

Month

Day

Year

Proof of Ownership: _____

- Needs to bring poa for vehicle

Interpreter Approved: _____

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

HAS copy - Will bring in ORIGINAL next visit. ALMOAD
CANNOT read cause of death - need to death INTERNAL

Interpreter Approved: _____

Legal Expert Opinion: _____

HAS police report verifying shooting & deceased in hospital

Interpreter Approved: _____

HAS judge & court report

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.)

CLAIMANT driving from Samarra to Tikrit. CONVOY passed CLAIMANT. LAST vehicle shot at CLAIMANT'S vehicle. CLAIMANT shot in LEFT shoulder.

- CONVOY stopped contacted Iraqi police. Police took INJURED to TIKRIT hospital. INJURED died 3 days later at hospital

- CLAIMANT IS SON OF DECEASED (JASIM ISMAEL MUSSEIN)
Pictures show 2 rounds into CAB of vehicle

Medical RPT - entered Hoisp 9AM - shot in Body (LEFT shoulder)

Evidence: _____

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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	
Warranty Death Veh Damage	\$1200	Toyota Pick 1976
Vehicle Damage	\$3500	

Total: \$4700

I was insured to the following extent against the damage or injuries I have sustained:

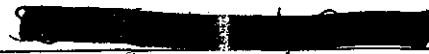

The name and address of my insurer (if any) is:

(Name) (Address)

I claim as damages: (Indicate amount in U.S. dollars and local currency)
\$ 4700 local _____


(Signature of Claimant)

Subscribed before me this 7 day of May, 2005.


(Print Name)

(Signature)