



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

REPLY TO
ATTENTION OF:

AFZP-VI-JA

10 May 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 05-IA5-701

1. Claimants name and address: A [REDACTED], Baqubah, Iraq
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 22 March 2005 in Baqubah, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$10,000.00 on 28 April 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 compensation for wrongful death for claimant's brother and personal property loss.
5. Facts:
 - a. Claimant alleged that U.S. Forces mistakenly conducted a raid on his brother's house, which was damaged as a result. During the raid, U.S. Forces allegedly opened fire, killing the claimant's brother and destroying personal property as a result.
 - b. Claimant submitted pictures, witness statements, police reports, and damage estimates with his 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 activity 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 sufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. Based on the facts and circumstances, U.S. was negligent in causing the death of claimant's brother.

001406

AFZP-VI-JA

SUBJECT: Claim of Abbass Hussein Abbass Jawad Al-Timiny, 05-IA5-701

7. Recommended Action: This claim is payable under the FCA for the above mentioned reasons. Consequently this claim is adjusted and approved for \$6,000.00 for the death of the claimant's brother and \$1,000.00 for the property damage, for a total approval of \$7,000.00.

[REDACTED]

[REDACTED]
CPT, JA
Claims Judge Advocate

CLAIMS FORM

To: United States Army Foreign Claims Commission.

From: Name: [Redacted]

Address: Bagubah

I am

- a. A citizen and national of: _____
- b. A permanent resident of: _____

I hereby make a claim against the United States Government for damages or injuries caused by: (Name, Organization, Military Department, Address, Telephone Number)

The property damaged is owned by: _____

My claim arose at: Bagubah Iraq
(Town) (City) (Country)

My claim arose on: March 22 2005
Month Day 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.)

Claimant's brother was killed by US Forces during a raid and
shot damaged the home and possessions in the raid.

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.)

<u>Item</u>	<u>Amount</u>
<u>Wrongful Death</u>	
<u>Property Damage</u>	

Total: _____

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

\$ 10,000 local _____

[Redacted Signature]

(Signature of Claimant)

Subscribed before me this 28 day of April, 2005.

[Redacted Signature]

(Signature)

001409