



**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-IA3-1404

1. **Identifying Data:** [REDACTED], Baghdad, Iraq
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 11 June 2005, near Balad, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 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. The claimant was driving from Baghdad to Tikrit on the main highway, with his son in the front passenger seat and his wife in the rear seat. U.S. Forces at a checkpoint opened fire on the vehicle as it approached too quickly and did not slow down in time. The claimant's son was shot. U.S. Forces provided him first aid, but he died none the less. The claimant provided a corroborating witness statement, photographs, an authentic death certificate, a note from A 5-7 CAV, verifying the event, and a police report with a scene sketch. The incident was verified through Division records.
6. **Opinion:** There is sufficient evidence to indicate that U.S. Forces 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]  
CPT, JA  
Chief, Claims

001499

**Claims Form**

To: United States Army Foreign Claims Commission

From: Name: \_\_\_\_\_

(Father)

POA/ATT: \_\_\_\_\_

Power of Attorney provided and interpreter approved:

Decedents: \_\_\_\_\_

(SON)

3/16

Hometown: \_\_\_\_\_

Baghdad

Iraqi Resident: \_\_\_\_\_

My claim arose at: \_\_\_\_\_

Highway Baled

(Town)

(City)

(Country)

My claim arose on: \_\_\_\_\_

Month

Day

Year

JUNE

11

05

1800

Proof of Ownership: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): same name, bullet wound, same date

Interpreter Approved: \_\_\_\_\_

Legal Expert Opinion: \_\_\_\_\_

Interpreter Approved: \_\_\_\_\_

Witness Statement (Consistent?):

W, (MOM) - US Forces machine guns, kill SON

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.)

a driving from Tikrit to Baghdad  
US forces at a checkpoint opened  
fire on the car, killing the US son  
son in front pass seat.  
US forces attacked to son, but he died

Evidence:

Sketch, photos, note from A/S-7 car

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>
Death of son	
	Total: \$ 2500

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)

\$ 2500 local \_\_\_\_\_

\_\_\_\_\_

(Signature of Claimant)

Subscribed before me this 2 day of July, 2005.

\_\_\_\_\_

(Print Name)

\_\_\_\_\_

(Signature)