



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

DHFT-JA

17 June 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 05-IA3-1240

1. **Identifying Data:** [REDACTED] Bayji, Iraq
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 20 May 2005, in Bayji, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$3,000 on 11 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 his son was wrongfully killed by U.S. Forces. The claimant was driving with his son near the Bayji market. U.S. Forces and Iraqi Police arrived at the market and allegedly started shooting randomly. The claimant's son was shot in the head. The claimant took him to the hospital, but he died. The claimant provided two corroborating witness statements, medical records, a death certificate and a scene sketch. The incident could not be verified through division records.
6. **Opinion:** There is some evidence to indicate that U.S. Forces shot and 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

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MEMORANDUM FOR Claimant

SUBJECT: Claim Denial

5 Jul 05

1. This is in response to your claim against the United States Government. Your claim has been reviewed under the Foreign Claims Act, 10 U.S.C. 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.
2. Your claim has been denied for the following reasons:
 - a. There is not enough evidence to prove your claim.
 - b. The evidence shows that United States Forces did not cause the damage.
 - c. The evidence shows that the damage was caused during combat.
 - d. The evidence shows that the damage was caused by your own negligence or wrongdoing.
 - e. The evidence shows that your claim was fraudulent.
 - f. Other: _____
3. If this is the first time your claim has been viewed by this office, you may submit an appeal. This office must receive the appeal no later than 30 days after receipt of this message. The appeal must also contain additional evidence proving your claim. If the appeal is sent after 30 days has passed, or does not provided additional evidence, then the appeal will be denied.
4. POC is the Tikrit Claims Office at DNVT 553-3362.


CPT, JA
Foreign Claims Commissioner

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [redacted] (mother)

POA/ATT: [redacted]

Power of Attorney provided and interpreter approved: Good

Decedents: [redacted] (son)

Hometown: _____ Iraqi Resident: _____

My claim arose at: _____ Bayji _____

(Town) (City) (Country)

My claim arose on: May 20 2005

Month Day Year

Proof of Ownership: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): Age: born '89, DOD 20 May 2005 Caus: bullet to head/left eye

Interpreter Approved: _____

Legal Expert Opinion: _____

Interpreter Approved: _____

Witness Statement (Consistent?): ¹ father (w/dec), ² bystander, ³ bystander

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.)

not an eyewitness
husband & son driving near market @ Bayji. Coalition forces + IP came to market, started shooting in main street.

father stm. driving w/son in vehicle. Am convoy began to shoot, son shot in head & and taken by father to hospital but died at hospital. All claim random shootings.

Son: DOB: 1989

Evidence: police sketch, death certificate, hosp documentation

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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.)

<u>Item</u>	<u>Amount</u>

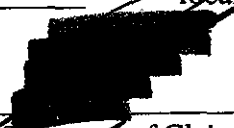
Total: \$3000

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)
\$ 3000 local


(Signature of Claimant)

Subscribed before me this 11 day of June, 2005


(Print Name)

(Signature)