



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-IA3-1214

- 1. Identifying Data:** [REDACTED] Bayji, Iraq
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 17 March 2005, in Bayji, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 4 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 the decedent was wrongfully killed by U.S. Forces. The decedent was driving his Volvo commercial truck from Basara to Shargat. He was hauling tomatoes. Unknown U.S. Forces shot and killed the decedent. A second patrol of U.S. Forces transported the decedent to the hospital at FOB Summerall, where he died. The decedent was shot as he exited a gas station. The incident was verified through a check of Division records. The claimant provided two corroborating witness statements, photographs, medical records, a death certificate and a scene sketch.
- 6. Opinion:** There is sufficient evidence to indicate that U.S. Forces shot and killed the decedent. 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

001527

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: _____

POA (ATT): _____

Power of Attorney provided and interpreter approved: verified by MURANK

Decedents: _____

Hometown: Basra Iraqi Resident: _____

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

My claim arose on: March 17 2005
Month Day Year

Proof of Ownership: N/A

Interpreter Approved: _____

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

allegations): Decedent's Name, Shooting 17 March 05, hospital report, one person w/ shattering wounds

Interpreter Approved: _____

Legal Expert Opinion: N/A

Interpreter Approved: _____

Witness Statement (Consistent?): 2 consistent statements

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.)

Decedent driving from Basra to Shargat in a big truck w/ tomatoes, near Bayji, shot at claimant. US soldiers took claimant to base (FOB Samarra) then gave body to Bayji police. (No US paperwork)

Evidence: medical report

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>
Wrongful Death	\$2500

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 4 day of JUN, 2005.

SGT _____
(Print Name)

(Signature)