



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

REPLY TO  
ATTENTION OF:

AFZP-VI-JA

30 July 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA5-1199

1. Claimants name and address: [REDACTED] Baqubah, Iraq
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 4 May 2005 in Baqubah, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$6,000 on 6 July 2005.
4. Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant for consideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for death of claimant's father.
5. Facts:
  - a. Claimant alleges that father was driving near a U.S. convoy that had mistaken his vehicle for a VBIED. U.S. Forces had shot at the vehicle and his father was killed.
  - b. The claimant submitted witness statements and a photograph along with the 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.

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- 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.
  - c. CMOC personnel vouched for the integrity of the claimant, and based on the facts and circumstances, this incident had been reported and U.S. Forces were involved in the death of claimant's father.
7. Recommended Action: This claim is payable under the FCA for the aforementioned reasons. Consequently, this claim is approved for \$6,000.

[REDACTED]  
[REDACTED] S  
CPT, JA  
Claims Judge Advocate



CLAIMS FORM

To: United States Army Foreign Claims Commission

From: Name: [Redacted]

Address: \_\_\_\_\_

I am

- a. A citizen and national of: Iraq
- 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)

CP

The property damaged is owned by: ~~CP~~ N/A

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

My claim arose on: May 4 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.)

claimants father was driving when he came near a CP convoy, US convoy thought he was a possible IBLD and shot at vehicle, killing him

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
<u>Death of Father</u>	<u>6,000</u>

Total: 6,000

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

\$ 6,000 local \_\_\_\_\_

[Redacted Signature]  
(Signature of Claimant)

Subscribed before me this 6 day of July, 2005.

[Redacted Name]  
(Print Name)  
[Redacted Signature]  
(Signature)

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