



DEPARTMENT OF THE ARMY  
Headquarters, 3<sup>rd</sup> Brigade Combat Team  
1<sup>st</sup> Infantry Division  
FOB Warhorse, Iraq  
APO AE 09392

REPLY TO  
ATTENTION OF:

AETV-BGR-JA

29 October 2004

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA5-067

1. Claimants name and address: [REDACTED] Al-Muqdadiyah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 10 April 2004 in Al-Muqdadiyah, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$5,000 on 20 October 2004.
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 wrongful death of husband.
5. Facts:
  - a. [REDACTED] claims that on 10 April 2004 the U.S. forces shot and killed her husband for being a suspected terrorist. [REDACTED] claims that her husband was not a terrorist nor did he associate himself with terrorists.
  - b. There was an Iraqi Police report, her husband's death certificate, and witness statements included in the submitted 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 activities 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 insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. This incident is a result of combat operations conducted by US Forces against insurgents and suspected insurgents in Al-Muqdadiyah, Iraq, between April 9<sup>th</sup> and 10<sup>th</sup> 2004.
7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$5,000 is denied.

[REDACTED]  
[REDACTED]  
CPT, JA

Assistant Brigade Legal Advisor

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**Claims Form**

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

Address: Al-Mugdadiyah

I am

- a. A citizen and national of: Iraq
- b. A permanent resident of: \_\_\_\_\_
- c. Employed by: \_\_\_\_\_
- d. Check one ( ) An insurer ( ) Not an insurer
- e. Check one ( ) A subrogee ( ) Not a subrogee

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

TF 2-2

The property damaged is owned by: (If the claim is made as an agent, parent, or guardian, attach a power of attorney or other evidence of authority and fill in the form below for party sustaining the damage or injuries.) \_\_\_\_\_

My claim arose at: Al-Mugdadiyah Iraq  
(Town) (City) (Country)

My claim arose on: April 10 2004  
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.)

On 10 Apr 04 the US forces shot & killed my husband he was suspected of being a terrorist.

Describe nature and extent of property damage or personal injury sustained as a result of the above incident.

Wrongful death of husband

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>Wrongful death of husband</u>	<u>\$5,000</u>

Total: \$5,000

I was insured to the following extent against the damage or injuries I have sustained:

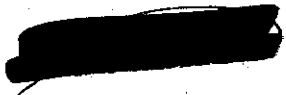
N/A

The name and address of my insurer (if any) is:

(Name) N/A (Address)

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

\$ 5,000 local

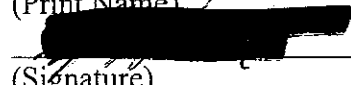


(Signature of Claimant)

Subscribed before me this 20<sup>th</sup> day of October, 2004.



(Print Name)



(Signature)

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