



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

REPLY TO
ATTENTION OF:

AETV-BGR-JA

4 December 2004

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA5-065

1. Claimants name and address: [REDACTED], Baqubah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 19 July 2004 in Khirnabat, Baqubah, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$4,275 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 claimant's son and damages to claimant's vehicle.
5. Facts:
 - a. [REDACTED] claims that on 19 July 2004 U.S. Forces fired upon his son, [REDACTED] while he was driving his 1981 Crown Taxi. As a result [REDACTED]'s son died and the vehicle was damaged.
 - b. There were photos, a death certificate, court documents, 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. Mr. Khalaf has not submitted no clear evidence of U.S. involvement.
7. Recommended Action: This claim is not payable under the FCA for the above-mentioned reasons. Consequently this claim for \$4,275 is denied.

[REDACTED]
[REDACTED]
CPT, JA
Assistant Brigade Legal Advisor

Claims Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

Address: Bagdadi, Iraq

I am

- a. A citizen and national of: _____
- 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)
CF?

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.) Filed by Attorney [REDACTED]

My claim arose at: Khirabat Bagdadi Iraq
(Town) (City) (Country)

My claim arose on: JUL 19 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.)

Claimant's son, [REDACTED] (taxi driver) was fired upon allegedly by CF damage to the vehicle and death of son ensued.

Pictures; Death certificate; Court documents and witness statements included.

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

Death of [redacted] - 21 yrs.
Damage to Taxi = bullets holes in auto body & blown out windows.
- Crown Taxi # 9666 Model 1981

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
Wrongful Death	3,500.00
Receipt for Vehicle Repair.	775.00

Total: 4,275.00

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)

\$ 4,275.00 local

[redacted signature]

(Signature of Claimant)

Subscribed before me this 20 day of October, 2004.

(Print Name)

(Signature)