

## DEPARTMENT OF THE ARMY

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

AFZP-VI-JA

7 August 2005

## MEMORANDUM OF OPINION

SUBJECT: Claim of

, 05-IA5-1100

1. Claimants name and address:

Ad-Duluiyah, Iraq.

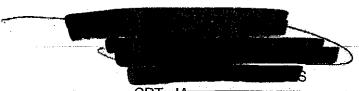
- 2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on 20 February 2005 in Ad-Duluiyah, Iraq
- 3. Amount of claim and filing date: Claimant filed a claim in the amount of \$15,000 on 9 July 2005.
- 4. Chapter the claim was considered under and a brief 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 property damage.

## 5. Facts:

- a. Claimant says that U.S. forces shot him while engaging.AIF
- b. There were photographs and a damage report 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 Unites States. In addition, the incident must be caused by either non-combat activities of the Unites States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.
- 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. Unfortunately, the claimant was injured in a firefight and this claim cannot be paid as it is combat-related.
- 7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$15,000 is denied.



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CPT, JA Claims Judge Advocate

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Claims Form

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.)  Amount    Section   Section	the above incident.	d extent of property damage or personal injury sustained as a result of
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