

## 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:

AFVZ-VI-JA

22 November 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of

. 06-IA5-04b

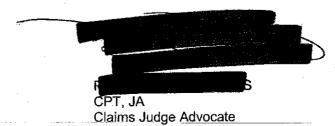
1. Claimants name and address:

, Ad-Duluiyah, Iraq.

- 2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on 14 September 2005 in Ad-Duluiyah, Iraq.
- 3. Amount of claim and filing date: Claimant filed a claim in the amount of \$7,500 on 26 September 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 personal injury.
- 5. Facts:
  - a. Claimant's son was shot and killed by U.S. forces.
  - 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 noncombat 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 sufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. 1/15<sup>th</sup> IN's commander verifies the validity of this claim and confirms U.S. involvement.
- 7. Recommended Action: This claim is payable under the FCA for the above mentioned reasons. Consequently this claim for \$2,500.00 is approved.



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