DEPARTMENT OF THE ARMY 3d Heavy Brigade Combat Team 4th Infantry Division (Mechanized) FOB Warhorse, Iraq APO AE 09397

AFZC-FC-JA

24 February 2006

MEMORANDUM FOR RECORD

SUBJECT: Claim of

06-3/4-303

1. Claimants name and address:

, Al-Duluyia, Iraq.

- 2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on 28 Dec 05, in Al-Duluyia, Iraq
- 3. Amount of claim and filing date: Claimant filed a claim in the amount of \$12,000 on 23 Feb 06.
- 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 compensation for death of wife and daughter.
- 5. <u>Facts:</u> The claimant stated that his wife and daughter were killed by US Forces while US Forces and insurgents were engaging in a fight. United States Forces dropped 500 pound bomb in this area on this day.
- 6. Opinion: 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. Insurgents were engaging US Forces from the claimant's home and two other houses. The predator video feed shows insurgents engaging US Forces with RPGs and small arms fire. The claim resulted from a combat-related incident, therefore it is not payable.
- 7. <u>Recommended Action:</u> This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$12,000 is denied.



Foreign Claims Commission



DEPARTMENT OF THE ARMY

HEADQUARTERS, 1st BATTALION 8th INFANTRY REGIMENT 3rd BRIGADE COMBAT TEAM, 4th INFANTRY DIVISION FOB PALIWODA, BALAD, IRAQ APO AE 09391

REPLY TO ATTENTION OF

AFTV-VVB

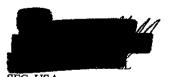
10 February 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of

1. Claimant's name and address,

- , AlDuluyia, Iraq.
- 2. Date and Place the incident occurred giving rise to the claim: Incident occurred on 28 December 2005
- 3. Amount of Claim and the date it was filed: Claimant filed the claim in the amount of \$ 12000.00,
- 9 January 2006.
- 4. Chapter(s) 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 compensation for damage to land.
- 5. Facts:
- a. Claimant states that his wife and daughter were killed when US forces destroyed his home with family inside.
- b. US Forces engaged a home in Al-Duluyia on this day.
- c. US Forces dropped one 500 pound bomb on this day and in this area
- d. Insurgents were engaging US forces from homes in this area on this day
- 6. Opinion:
- a. Insurgents were engaging US Forces from this house and two other homes. Predator video feed shows insurgents engaging forces with RPG's and small arms fire.
- 7. Recommended action: Claim should be denied.



SFC, USA BN Claims Officer

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