

## **DEPARTMENT OF THE ARMY**HEADQUARTERS, 1<sup>ST</sup> BRIGADE, 3<sup>RD</sup> INFANTRY DIVISION (FORWARD) TASK FORCE BAND OF BROTHERS, OPERATION IRAQI FREEDOM FORWARD OPERATING BASE SPEICHER APO AE 09393

AFZP-VA-HQ

23 January 2006

## MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to (Claim Number 05-IA3-1733)

s son was killed when a UXO detonated by U.S. Forces. 1. On 1 May 2004,

2. I certify that funds are available from the CERP to pay in the amount of \$2500.00. This is a condolence payment.

in the amount of \$2500.00 from CERP has been legally 3. The request to pay reviewed. There is no legal objection to this payment and it is accordingly approved.

Project Purchasing Officer



## **DEPARTMENT OF THE ARMY**

OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

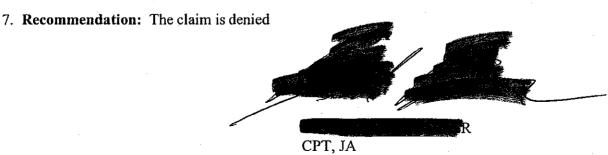
20 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of and and a, 06-IA3-11	SUBJECT: Claim of	f	h and	1,	06-IA3-	1733
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1. Identifying Data:

- 2. Date and place the incident occurred giving rise to the claim: The claim occurred on 1 May 20(4 in Al Dujail, Iraq.
- 3. Amount of claim and date it was filed: Claimant filed a claim for \$5,500 on 3 Sept. 2005.
- 4. Jurisdiction: This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was properly filed in a timely manner.
- 5. Facts: Claimant alleges that a CF dropped a bomb in his orchard. The bomb allegedly did not explode upon impact. Claimant's son, the UXO detonated. Claimant's cousin, the UXO detonated. Claimant's cousin, the UXO detonated in the explosion. A couple of hours later, CF allegedly came to the orchard and took the body and Claimant to LSA Anaconda for medical treatment. In support of their claims, the Claimants have offered witness statements, medical records from LSA Anaconda, and police and judicial reports.
- 6. Opinion: "Under AR 27-20, paragraph 10-3, Claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. AR 27-20 defines combat activities as, "Activities resulting directly or indirectly from action by the enemy, or by the U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict." Here, an airstrike clearly constitutes combat activity. While unfortunate, this claim is precluded from compensation under the combat exception.



Claims Judge Advocate

Claims Form
To United States Amery Foreign Claims Commission
To: United States Army Foreign Claims Commission.  From: Name:
POA/ATT:  Power of Attorney provided and interpreter approved:  1240A Sub CE (14) Mad
Decedents:
Hometown: Al DULLy C Straqi Resident:
My claim arose at:  Al DVJAYI DAO
(Town) (City) (Country)
My claim arose on: May 155 (City)
Month Day Year
Proof of Ownership:
Interpreter Approved:
Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant
allegations): Body Separated to pleas by exposion
☐ Interpreter Approved:
Legal Expert Opinion: Police & Judge S Reports
☑ Interpreter Approved:
Witness Statement (Consistent?): 2 5 to the S Circle Statement (Consistent?): 2 5 to the S Circle 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.)
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- COVS.N W45 5411
Alive when transported to ISAA (AMAAd Ali MUSSEIN).
000941
Evidence: Med POCUSUS (State IED explosion)
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	(Signature o	or Claimant)		****	
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