



DEPARTMENT OF THE ARMY
Office of the Command Judge Advocate
1st Brigade Combat Team, 101st Airborne Division (AASLT)
FOB Warrior, Kirkuk, Iraq, APO AE 09335

REPLY TO
ATTENTION OF:

AFZB-KA-CJA

12 MAR 06
3 March 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IO6-T0304

1. Claimants name and address: [REDACTED] Hawijah, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 13 January 2006, near Hawijah, Iraq.
3. Amount of claim and filing date: Claimant filed a claim for \$950 on 27 February 2006.
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 injuries.
5. Facts:
 - a. [REDACTED] claims that on 13 January 2006, she was in the vehicle, driving home from their Buffalo farm when Coalition Forces opened fire on them as they approached the groceries bazaar. She was injured (shrapnel wounds to extremities), her sister, [REDACTED] was killed and her two sisters were injured as a result of the incident.
 - b. There was a witness statement, medical reports, a power of attorney, a copy of her ID cards and a note from the unit submitted with the claim.
 - c. Investigation by the unit showed that the incident was a direct result of combat operations.
6. Opinion:
 - a. In order to form a basis for a claim under the FCA, the incident has to occur outside of the United States and be from either non-combat activities of the U.S. 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. This incident is a result of combat operations.

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AFZB-KA-CJA

SUBJECT: Claim of Hamdia Salman Naji, 06-IO6-T0304

7. Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$950 is denied.

[REDACTED]

CPT, JA
Foreign Claims Commissioner

OFFICE OF THE COALITION PROVISIONAL AUTHORITY
(OCPA) PROJECT WORKSHEET

TYPE OF OPCA PROJECT: Regional Level Quick Impact Fund

MILITARY UNIT COORDINATING PROJECT: HHC/1st BCT/101st Abn Div, Judge Advocate

MILITARY UNIT CONTACT INFO FOR PROJECT

NAME: [REDACTED]
PHONE: VOIP 242-2624
NIPR EMAIL: [REDACTED]

NAME THE PROJECT: Condolence Payment for the personal injuries to [REDACTED]
(reference Claim No. 06-IO6-T0304)

PROJECT LOCATION: Hawijah, Iraq

PROJECT DESCRIPTION: Condolence Payment to [REDACTED].

DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION: Condolence payments are cash payments to local nationals, or to their family members, who suffer death or injury or property damage caused by US forces in the performance of official duty. US forces make Condolence payments without reference to fault by either the local national or US forces, as an expression of sympathy and good will and in the best interest of the US Government.

COST (U.S. Dollars) AND JUSTIFICATION: \$1,500.00. [REDACTED] and her father and sisters were mistakenly fired on by coalition forces, resulting in personal injuries.

[REDACTED] does not have a cognizable claim under the Foreign Claims Act (Chapter 10, AR 27-20) because the personal injuries were incident to combat.

NAME AND POSITION OF IRAQI WHO WILL ASSUME RESPONSIBILITY FOR THE COMPLETED PROJECT (Responsible Iraqi) [REDACTED]

ESTIMATED DAYS REQUIRED TO COMPLETE PROJECT: 1

CLAIM FOR DAMAGE OR INJURY DEATH

INSTRUCTION: Please read carefully the instruction on the reverse side and supply information requested on both sides of this form .Use additional sheets (s)

person From .. approve MBC

AMER

SITE OF THE ACCIDENT
ROUND HAWEJA

2. Name of claimants & Address

[REDACTED]
HAWEJA KIRKUK

GENDER
Male

4. DATE OF BIRTH
1985

5. MARITAL STATUS
Married

6. DATE & DAY OF ACCIDENT
13-JAN-2006

TIME:
19.00.

The claim

At the time when the whole family was returning back from their buffalo farm ,and during their entering Haweja and exactly opposite groceries bazaar the CF opened fire on them killing [REDACTED] and injuring the three other sisters ([REDACTED]), reason of the shooting , the CF came ahead of them driving without any indicating light which made them to shot at the victims, in addition to the injuries the car as damaged specially in the engine and the accessories ,then the CF immediately evacuated them to Ballad hospital where the CFs seat is there.

INJURY

Three females were injured one of them is [REDACTED]

WITNESSES

NAME

ADDRESS

Amount of claim (IN Dollars)

12A PROPERTY

12b PERSONAL INJURY

12c WRONGFUL DEATH

12A

\$ 950

\$ 950

I CERTIFY THAT AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURY CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT

13b. Phone number of signatory

14c. Date of claim

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS