

## 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:

AFZP-VI-JA

20 April 2005

#### MEMORANDUM OF OPINION

SUBJECT: Claim of

05-IA5-578

1. Claimants name and address

, Baqubah, Iraq.

- 2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on March 24<sup>th</sup> 2005 in Baqubah, Iraq
- 3. Amount of claim and filing date: Claimant filed a claim in the amount of \$5,000 on 31 March 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 damages to claimant's house and compensation for father's death.

### 5. Facts:

- a. Claimant says there were fighting between U.S. forces and insurgents and in defense shot at the claimant's house causing minor damages, also supposedly his father was shot and died later.
- b. There were pictures, witness statements, and CDF from 1/10 FA included in the submitted claim.

#### 6. Opinion:

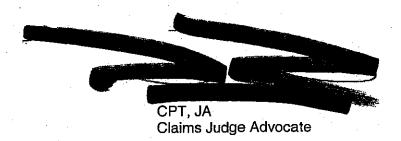
a. In order to form a basis for a claim under the FCA, the incident in question must have arisen outside the Unites States. In addition, the incident must be caused by either non-combat activities of the Unites States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

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- 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. Based on the facts and circumstances, this incident is combat related and is not compensated for under the FCA.
- 7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$5,000 is denied.



# **CLAIMS FORM**

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b. A pe	rmanent resident	of :			
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