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DEPARTMENT OF THE ARMY

Headquarters, 3rd Brigade Combat Team

3rd Infantry Division FOB Warhorse, Iraq APO AE 09397

REPLY TO ATTENTION OF:

AFZP-VI-JA

26 July 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of

r, 05-IA5-1143

1. Claimants name and address:

r, Sakhar Village, Muqdadia, Iraq

- 2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on 12 February 2005 in Sakhar Village, Muqdadia, Iraq.
- 3. Amount of claim and filing date: Claimant filed a claim in the amount of \$1,500.00 on 20 July 2005.
- 4. Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant for consideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for damages to claimant's vehicle.

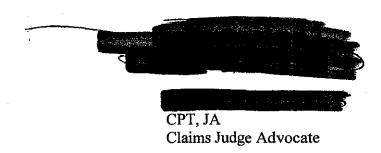
5. Facts:

- a. Claimant states that on 12 February 2005, the claimant's vehicle was shot at by U.S. Forces as he passed a convoy on the other side of the road.
- b. The claimant submitted witness statements and photographs along with the 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 activity 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 insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. The evidence shows that on the date in question, the claimant did not stop at a checkpoint and U.S. Forces responded accordingly.
- 7. Recommended Action: This claim is not payable under the FCA for the aforementioned reasons. Consequently, this claim for \$1,500.00 is denied.



CLAIMS FORM

	rmy Foreign Claims Commission	
From: Name: Address:		
Address:		
I am		
	izen and national of:	
b. A per	rmanent resident of:	
-	m against the United States Government for damages or injuries caused by: (ry Department, Address, Telephone Number)	Name,
The property damage	ed is owned by: <u>claymant</u>	
My claim arose at:_	(Town) (City) Trag (Country)	
	, τ,	
My claim arose on:_	Feb 12 2008	
	Month Day Year	
Claym	back of this sheet, if necessary.) A Shortes that of shot his vely he was passing by convoy on other of the road,	10 CC
personal injury: (Att <u>Item</u>	ount of property damage and itemized expenses resulting from the property datach bills and receipts, if applicable.) Amount A Bryne from Mass 1, 500	arnage or
	Total: (, 500	
I claim as damages: 1	(Indicate amount in U.S. dollars and local currency)	
\$ \(\frac{1}{500}\)	local	
,	(Signature of Claimant)	
Subscribed before mo	e this 20 day of July, 2005.	
	(Print Name)	001509

(Signature)

DEPARTMENT OF THE ARMY



Headquarters, 3rd Brigade Combat Team

3rd Infantry Division

FOB Warhorse, Iraq
APO AE 09397

REPLY TO ATTENTION OF:

AFZP-VI-JA

16 August 2005

MEMORANDUM OF OPINION

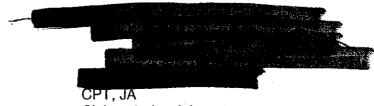
SUBJECT: Claim of

05-IA5-1143 (reconsideration)

1. Claimants name and address:

Muqdadia, Iraq.

- 2. <u>Incident date and place the incident occurred giving rise to the claim</u>: Incident occurred on 12 Feb 05 in Muqdadia, Iraq
- 3. Amount of claim and filing date: Claimant filed a claim in the amount of \$1,500.00 on 20 July 2005 and filed the reconsideration on 11 Aug 05.
- 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 the death of the claimant's son.
- 5. <u>Claimant's Allegations:</u> Claimant staes that his vehicle was shot by U.S. Forces. The claimant had witness statements and photographs along with the claim.
- 6. Investigator's Opinion:
 - a. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. Additionally, the reasons for denial of this claim are included in paragraph b.
 - b. The evidence shows that the claimant did not stop at the CF's checkpoint and U.S. forces responded accordingly.
- 7. Recommended Action: This claim is not payable under the FCA. This claim for \$1,500 is denied.



Claims Judge Advocate