



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 [REDACTED], 05-IA5-1143

1. Claimants name and address: [REDACTED], Sakhar Village, Muqdadia, Iraq
2. Incident date and place the incident occurred giving rise to the claim: 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 United States. In addition, the incident must be caused by either non-combat activity of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

001507

AFZP-VI-JA

SUBJECT: Claim of [REDACTED], 05-IA5-1143

- 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.

[REDACTED]
[REDACTED]
CPT, JA
Claims Judge Advocate

001508

CLAIMS FORM

To: United States Army Foreign Claims Commission

From: Name: [Redacted]
Address: _____

I am

- a. A citizen and national of: Iraq
- b. A permanent resident of: _____

I hereby make a claim against the United States Government for damages or injuries caused by: (Name, Organization, Military Department, Address, Telephone Number)

CF

The property damaged is owned by: claimant

My claim arose at: _____
(Town) (City) (Country)
Muqadadiyah Iraq

My claim arose on: FEB 12 2005
Month Day Year

Give a brief 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.)

Claimant states that CF shot his vehicle as he was passing by convoy on other side of the road.

List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

Item	Amount
<u>Damage to Engine from bullets</u>	<u>1,500</u>

Total: 1,500

I claim as damages: (Indicate amount in U.S. dollars and local currency)
\$ 1,500 local _____

X [Redacted]
(Signature of Claimant)

Subscribed before me this 20 day of July, 2005.

[Redacted]
(Print Name)

[Redacted]
(Signature)

001509



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 [REDACTED] 05-IA5-1143 (reconsideration)

1. Claimants name and address: [REDACTED] Muqdadia, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: 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. Claimant's Allegations: Claimant states 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.

[REDACTED]
CPT, JA
Claims Judge Advocate

001510