



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-T0302

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 \$12,225 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 a damages to his vehicle.
5. Facts:
 - a. [REDACTED] claims that on 13 January 2006 he was driving home from his Buffalo farm when Coalition Forces opened fire on them as they approached the groceries bazaar. His daughter, [REDACTED] was killed and his three other daughters were injured as a result of the incident. His 1984 Toyota Landcruiser was destroyed as a result of the incident.
 - b. There was an estimate of repair, an ownership documents, a witness statement, a power of attorney 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.

001134

AFZB-KA-CJA

SUBJECT: Claim of Salman Naji, 06-IO6-T0302

7. Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$12,225 is denied.

[REDACTED]

CPT, JA
Foreign Claims Commissioner

001135

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: Captain [REDACTED]

PHONE: VOIP 242-2624

NIPR EMAIL: [REDACTED]

NAME THE PROJECT: Condolence Payment for damages to the vehicle of [REDACTED] (reference Claim No. 06-106-T0302)

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: \$2,500.00 [REDACTED] and his daughters were mistakenly fired on by coalition forces, resulting in damages to his vehicle.

[REDACTED] does not have a cognizable claim under the Foreign Claims Act (Chapter 10, AR 27-20) because the vehicle damage was 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

001136

**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

0302

GENDER
Male**4. DATE OF BIRTH**
1946**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.

There are no picture because the car was completely repaired .

Property Damaged

The engine were damaged because of penetration of the bullets, radiator, front windshield side windows four tiers , break power , rear lights

INJURY**WITNESSES****NAME****ADDRESS**

Hawja Bazar

Amount of claim (IN Dollars)**12A PROPERTY**
\$ 12225**12b PERSONAL INJURY****12c WRONGFUL DEATH****12A**
\$ 12225

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**