



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

13 July 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED], 05-IA5-1049

1. Claimants name and address: [REDACTED] Mufrak, Iraq
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 28 June 2004 in Mufrak, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$6,000.00 on 6 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 death of claimant's son.
5. Facts:
 - a. Claimant states that on 9 April 2005, the claimant and claimant's son were checking the local shops that sustained damage when a bomb went off, killing his son.
 - b. The claimant submitted witness statements 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.

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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. There is no record of U.S. activity on the date in question; however, an IED had been detonated in the area. The claimant submitted no evidence to corroborate his claim.
7. Recommended Action: This claim is not payable under the FCA for the aforementioned reasons. Consequently, this claim for \$6,000.00 is denied.

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

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Claims Form

To: United States Army Foreign Claims Commission.

From: Name: _____

Address: _____

MURAK

I am

- a. A citizen and national of: _____
- b. A permanent resident of: _____
- c. Employed by: _____
- d. Check one () An insurer () Not an insurer
- e. Check one () A subrogee () Not a subrogee

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: (If the claim is made as an agent, parent, or guardian, attach a power of attorney or other evidence of authority and fill in the form below for party sustaining the damage or injuries.) _____

My claim arose at: _____

MURAK

(Town)

(City)

(Country)

My claim arose on: _____

April

9

2005

(2200)

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.)

Battle going on in area. Bomb dropped on Bay who killed.

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Describe nature and extent of property damage or personal injury sustained as a result of the above incident.

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

Death of Child

Total:

\$ 6000-

I was insured to the following extent against the damage or injuries I have sustained:

The name and address of my insurer (if any) is:

(Name)

(Address)

I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$

\$ 6000-

local

(Signature of Claimant)

Subscribed before me this 10 day of Feb, 2005

(Print Name)

(Signature)

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