



DEPARTMENT OF THE ARMY
Headquarters, 1st Brigade Combat Team
10th Mountain Division (Light Infantry)
Forward Operating Base Warrior, Iraq
APO AE 09338

AFZS-LI-JA

24 May 2008

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) , 08-IH4-T103

1. Claimants name and address: (b)(6)
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 8 May 2007 in Hawijah, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$2,500.00 on 11 March 2008.
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 the death of claimant's brother.
5. Facts:
 - a. (b)(6) claims that on 8 May 2007, Coalition Forces were conducted a raid on his village when a Coalition Force helicopter opened fire and killed his brother.
 - b. There was an I.D. card, death certification, police reports and witness statements included in the submitted claim.
 - c. The incident was able to be verified by the responsible unit.
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 the negligent or wrongful acts of military members or civilian employees of the Armed Forces.
 - b. There is insufficient evidence to suggest that this incident resulted from non-combat activity or arose out of the negligence and/or wrongful acts of the United States Armed Forces. Any appeal must be submitted within 30 days.

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7. Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$2,500.00 is denied.

(b)(3)(b)(6)

CPT, JA

Foreign Claims Commissioner

CENTCOM 008461