



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

AFZS-LI-JA

16 March 2008

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6), 08-IH4-T096

1. Claimants name and address: (b)(6) Kirkuk, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 1 July 2007 in Kirkuk, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$2,500.00 on 20 November 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 his son.
5. Facts:
  - a. (b)(6) claims that on 1 July 2007, his son was riding in a taxi. The taxi was involved in an escalation of force incident with a Coalition Forces convoy which resulted in the death of his son.
  - b. There was an I.D. card, death certificate, power of attorney, and a Sigact 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)

Foreign Claims Commissioner

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