

6-IRB-490

CENTCOM 005235

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25943

Traffic stopped on IED
SUV tried going around the
tractor trailer, & started to
drive in the median.

Warning/disabling shots fired but
the vehicle appeared to
accelerate.

Children, burning alive
exited the vehicle.

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Pages 3 through 4 redacted for the following reasons:

Foreign Language Text
Foreign Language Text, (b)(6)



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

1 April 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6)

1. **Identifying Data:** (b)(6)

2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 10 January 2006 in Samarra, Iraq.

3. **Amount of claim and date it was filed:** Claimant filed a claim for \$15,000 on 25 March 2006.

4. **Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was properly filed in a timely manner.

5. **Facts:** The Claimant alleges that his vehicle, a (b)(6) GMC Suburban, was destroyed by CF when his cousin was driving the vehicle from Tikrit to Samarra. CF were allegedly blocking the street and started shooting at the vehicle. The vehicle allegedly began to burn and was completely destroyed. Several persons inside the vehicle were killed and injured. A SIGACTS investigation revealed that a CF patrol had blocked traffic while a possible IED was being investigated. Traffic had stopped behind a tractor trailer when a SUV went around the front vehicle and began traveling on the median strip towards the halted patrol. The patrol fired warning/disabling shots, but the vehicle appeared to accelerate. The CF patrol, fearing that the vehicle was a VBIED opened fire. The vehicle quickly became engulfed with fire. The patrol noticed that several women and children were inside the vehicle and tried to exit the vehicle as it burned. The incident is confirmed by CPT (b)(3),(b)(6), the CATA-22 team leader.

6. **Opinion:** "Under AR 27-20, paragraph 10-3, Claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. AR 27-20 defines combat activities as, "Activities resulting directly or indirectly from action by the enemy, or by the U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict." Here, the claimant's damage was caused during an escalation of force. This constitutes combat activity because the troops in contact feared the vehicle was a VBIED and were acting in self defense.

7. **Recommendation:** The claim

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

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

CPT, JA
Claims Judge Advocate

CENTCOM 005239

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DEPARTMENT OF THE ARMY
HEADQUARTERS, 3rd BRIGADE COMBAT TEAM
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

10 April 2006

CP3AAS61000446-2
MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED] (b)(6) (Claim Number 06-IR8-332)

1. On 10 January 2006 [REDACTED] (b)(6) alleges that when his cousin was driving his car CF had the road blocked and as he approached they started shooting the vehicle. Several people inside the car were killed and others were injured.
2. I certify that CERP funds are available to pay [REDACTED] (b)(6) in the amount of \$2,500.00. This is a battle damage payment.
3. The request to pay [REDACTED] (b)(6) in the amount of \$2,500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED] (b)(3),(b)(6)

CPT, EN
Project Purchasing Officer

CENTCOM 005240

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: _____ (b)(6) _____

POA/ATT: N/A

Power of Attorney provided and interpreter approved: _____

Decedents: N/A

Hometown: _____ Iraqi Resident: _____

My claim arose at: Samarra
(Town) (City) (Country)

My claim arose on: Jan 10 06
Month Day Year

Proof of Ownership: needs to bring the original sell contracting for the vehicle

VIN Match: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): N/A

Interpreter Approved: _____

Medical Report/Legal Expert Opinion: The whole vehicle destroy

Interpreter Approved: yes

Witness Statement (Consistent?): W1 (driver on road) saw CF shoot at vehicle while it was driving at night way
eye witness

Interpreter Approved: yes W2 same as above

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 alleges that his cousin was driving his car at the highway near samarra; CF were block the street and they start shoot at the vehicle and the car caught fire. He has a memo from CPT (b)(3),(b)(6) in this packet. Suburban G.M.C 1995

Evidence: legal expert, photos

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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.)

<u>Item</u>	<u>Amount</u>
The whole vehicle destroy	

Total: \$ 13 000

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

\$ 13 000 local _____

(b)(6)

(Signature of Claimant)

Subscribed before me this 25 day of March, 2006

CPT (b)(3),(b)(6)

(Pri
(Sig (b)(3),(b)(6)



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

MEMORANDUM FOR RECORD

SUBJECT: Waiver of Notification

1. I, the Claimant, hereby agree that if I fail to provide any requested evidence to the CMOC Claims Office within sixty (60) days of the date below or to request a written extension of the sixty (60) day period, such inaction shall constitute an affirmative act of abandonment of my claim, and my claim shall be administratively closed in accordance with the provisions of DA PAM 27-162, paragraph 13-3(f).

2. I further agree that if I wait longer than sixty (60) days from the date below to return to the CMOC to receive notification of the final disposition of my claim or to request a written extension of the sixty (60) days period, this failure will result in denial of the claim. The claim will be administratively closed in accordance with the guidance above.

1. انا المشتكي هنا اوافق على اني اذا فشلت في اثبات طلبي بالاملة الكافية الى دائرة الشكاوي (السيماك) خلال مدة (60) ستون يوما من تاريخ اليوم او طلب التمديد (الاستئناف) خلال فترة ستون (60) يوما, هذا سوف يسبب عدم تكوين تكويد لقضيتي, ويسبب نك قضيتي سوف تترك و تغلق اداريا طبقا للقانون (د,ا,ب,ايم 162-27, من الفقرة 13-3(ف)).

2. وانا كذلك اوافق على اني اذا انتظرت اكثر من (60) ستون يوما من التاريخ المحدد من دائرة (السيماك) لاستلام النتيجة للقرار النهائي لقضيتي او لطلب التمديد خلال الفترة المحددة وهي (60) ستون يوما, هذا سوف يتسبب برفض قضيتي. و القضية سوف تغلق اداريا وفقا للقانون.

Claimant Signature:

(b)(6)

Sworn before

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

5 day of March 2006.

CENTCOM 005243

Original in
claim 6-IR8-481
25 mar 06

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

DEPARTMENT OF THE ARMY
Headquarters, 3rd BN, 320th FA
FOB Remagen
APO AE 09383

AOCP-CAD-445

23 MARCH 2006

MEMORANDUM FOR RECORD

SUBJECT: Justification for Battle Damage Payment to Iraqi Citizen

1. The purpose of this memorandum is to provide justification for battle damage payment for (b)(6)
2. On the evening of January 10, 2006, (b)(6) was driving near a coalition checkpoint in Samarra on his way to Baghdad from Mosul. There were six occupants in the vehicle at the time of the incident. While traveling south on a highway near Samarra, Mr. (b)(6) approached a coalition checkpoint and was engaged with small arms fire. The vehicle was hit and caught fire, killing all the occupants inside. The IP responded and verified the information. There are no witness statements from coalition, only the IP that responded. It is our belief that the vehicle was damaged by CF and (b)(6) (b)(6), should be compensated accordingly.
3. POC for this memorandum is the undersigned at (b)(2)High

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

CPT, OD
CATA-22 Team Leader

CLASSIFICATION (IF REQUIRED)

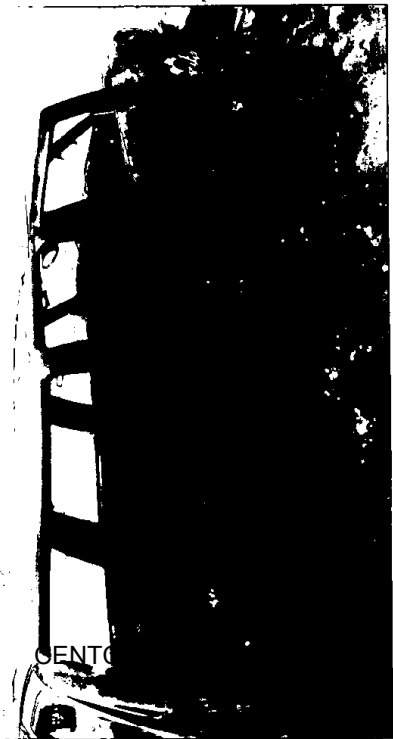
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Page 11 redacted for the following reason:

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(b)(2) Hig

(b)(6)

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Pages 18 through 23 redacted for the following reasons:

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