



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

25 June 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 6-IT6-045

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

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

3. **Amount of claim and date it was filed:** Claimant filed a claim for \$5,000 on 24 June 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 a CF was traveling near his house when it was attacked by AIF. The convoy allegedly returned fire in an uncontrolled manner and allegedly killed the claimant's wife. A SIGACTS investigation revealed no activity meeting claimant's description of events. *sister*

6. **Opinion:** "Under AR 27-20, paragraph 10-3, liability under the FCA may be based on acts or omissions of U.S. soldiers or civilian employees of a U.S. military department only if they are considered negligent or wrongful." Here, there is insufficient evidence to prove the claim. The claim is likely also precluded from payment under the combat exception, if in the event the claimant is able to bring in more evidence.

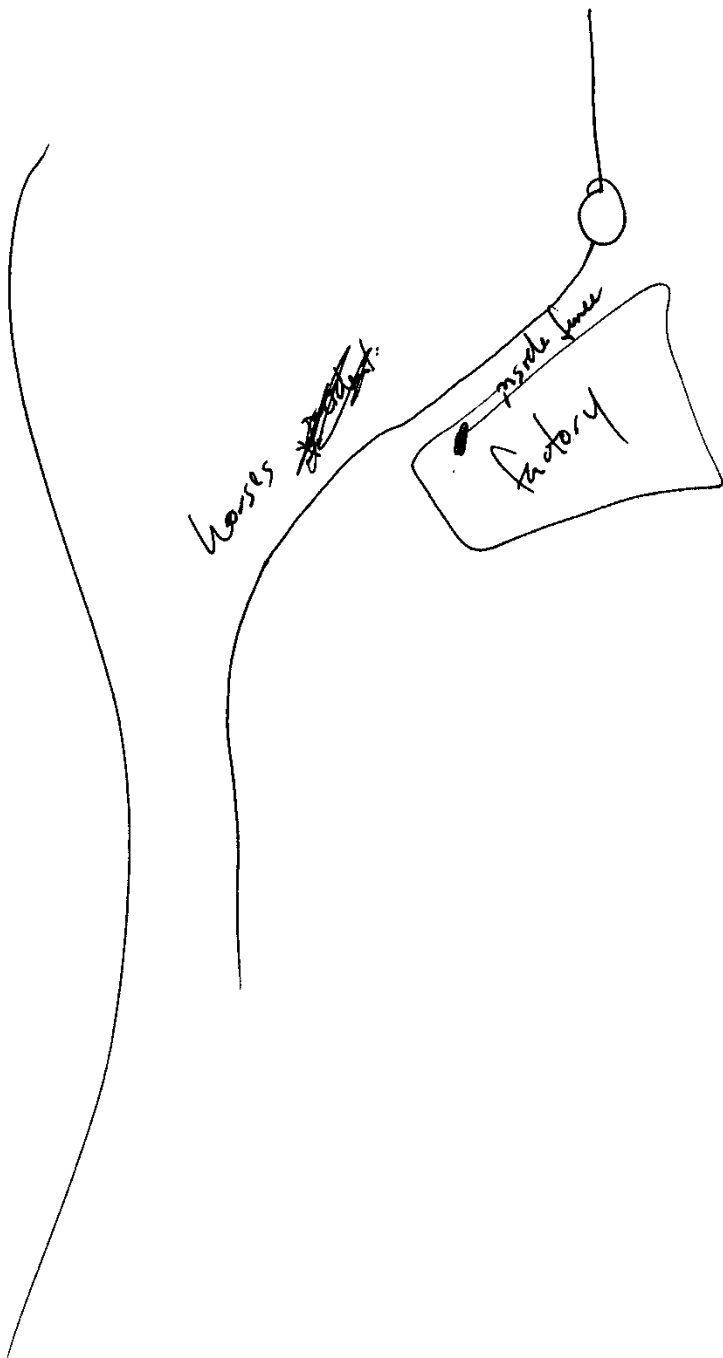
7. **Recommendation:** The claim is de

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

CPT, JA
Claims Judge Advocate

CENTCOM 005428

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CENTCOM 005429

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6-176-045
8 Jul 06



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AFZB-JA-C

MEMORANDUM FOR Record

SUBJECT: Claimant Denial

1. This is in response to your claim against the United States Government. Your claim has been reviewed under the Foreign Claims Act, 10 U.S.C. 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.

2. Your claim has been denied for the following reasons:

- a. There is not enough evidence to prove your claim.
- b. The evidence shows that United States Forces did not cause the damage.
- c. The evidence shows that the damage was caused during combat.
- d. The evidence shows that the damage was caused by your own negligence or wrongdoing.
- e. The evidence shows that your claim was fraudulent.
- f. Other: _____

3. If this is the first time your claim has been viewed by this office, you may submit an appeal. This office must receive the appeal no later than 30 days after receipt of this message. The appeal must also contain additional evidence supporting your claim. If the appeal is sent after 30 days have passed, or does not provide additional evidence, then the appeal will be denied.

4. POC is the 101st Airborne Division (Air Assault) Claims Office at DSN

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

CPT, JA
FCC

CENTCOM 005430

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26088

TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: _____ (b)(6)

POA/ATT: _____ (b)(6)

† Power of Attorney provided and interpreter approved: _____

Decedents: _____

Hometown: Samarra † Iraqi Resident: Affirm

My claim arose at: _____
 (Town) Samarra (City) (Iraq Drug Factory) (Country)

My claim arose on: April 2nd 2006
 Month Day Year

Proof of Ownership: _____ †

VIN Match: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): _____ (b)(6) unfixed time

† Interpreter Approved: _____

Medical Report/Legal Expert Opinion: \$5000

† Interpreter Approved: _____

Witness Statement (Consistent?): ① Eye witness, while the CF convoy come through out road near to the claimant house was a unknown direction shot fire to the CF convoy they shot fire back in a uncontrolled way. The claimant wife got dead, when she was out side her house just in front of the Exit door.

† Interpreter Approved: ② Same story.

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.)

In 2/4/2006. Near by my house when CF convoy come through out. It was a unknown direction shot fire to my house, CF convoy they fire back which was uncontrolled manner, due to that my wife got killed when she was in front her house attempted to go in door, according to death certificate and witnesses' statements information, the wife woman had been

(b)(6)

decendent is claimant's sister

Evidence: _____

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>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Total: \$ 5000

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

\$ 5000 _____ local _____

(b)(6)

(Signature of Claimant)

Subscribed before me this 24 day of June, 2006.

(Print Name)

(Signature)

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

CENTCOM 005432

Name (b)(6) الاسم

Date 27 July 06 التاريخ

29 رقم المعاملة

Claim No. B-IT6-045 السبب

Reason L/S or A. Neal

Appointment with STA

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

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TF Band of Brothers
Foreign Claims Cover Sheet

File #: 6-IT6-045

Name: (b)(6) _____

POA/ATT: (b)(6) _____

Date Received: 24 June Date of Incident: 2nd April 2006

Claim Amount: \$5000 Location: Samarra (Drug Factory)

Next Apt: 8 July 2006 Contact Info: _____

Translation: _____ (b)(3),(b)(6) _____

Further Investigation:

Contact S-2 Check Sigacts Nothing found

Approved Denied I/E (b)(3)(b)(6) _____
6/25/06

Goodwill Payment recommended: _____
 Approved: _____ Denied: _____

MVA RAID LOST NEG FIRE REAL
 OTHER: _____

Appeal

Denied

3-187 reports

No AIF activity
that day.

Drug factory

↳ N.Wof

SAMARA

unknown time

CENTCOM 005435

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26093

(b)(6)

Date... 8 July 2006..... الاسم

Claim No.. 6-ITG-045..... التاريخ

Reason ... C.S. رقم المعاملة

Appointment with... C.Mal..... السبب

Sig الموعد مع

(b)(6)

التوقيع
NTCOM 005436

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26094

6-IT6-045-00010

Page 10 redacted for the following reason:

Foreign Language, (b)(6)

Name	(b)(6)	الاسم
Date	2007.06	التاريخ
Claim No.	6-176-045	رقم المعاملة
Reason	appeal	السبب
Appointment with	C.M.O.C	الموعد مع
Signature	(b)(6)	التوقيع
CENTCOM 005438		

Foreign Language Text

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26096

الموضوع / انكار قضية

- ب- ان الشكوى التي قدمتها قد تم رفضها للأسباب التالية :
- (A) - لم توجد ادلة كافية لتثبت صحة القضية .
- B- الادلة تبين ان قوات التحالف لم تتسبب بالحادث .
- (C) الادلة تبين ان الاضرار قد حصلت اثناء مصادمات .
- D- الادلة تبين ان الحادث قد حصل نتيجة اهمالك او الخطيء الذي تسببت فيه .
- E- الادلة بينت ان الشكوى التي قدمتها هي محاولة احتيالي .
- F- اخرى -----
- ج- اذا كان هذا هو الوقت الاول بان قضيتك ينظر بها في هذا المكتب , تستطيع ان تقدم استئناف وهذا المكتب يجب ان ياخذه خلال (30) يوما من استلام هذه المذكر للاستئناف كذلك يجب ان يجلب المشتكي المزيد من المستمسكات لاثبات صحة القضية اذا ارسلت الاستئناف فيما بعد او لم تطيف مستمسكات اخرى سوف ترفض القضية للمرة الثانية .
- لمزيد من المعلومات الاتصال بالنقيب روبرت ابوت بالرقم 1022-845-318



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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 المشتكى هنا اوافق على اني اذا فشلت في اثبات طلبي بالادلة 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 تأكيد لقضيتي , وبسبب ذلك قضيتي سوف تترك و تغلق اداريا طبقا للقانون (د,ا,ب,ا,م 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 _____, on ____ day of _____ 200 ____.

CENTCOM 005440

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Pages 14 through 15 redacted for the following reasons:

Foreign Language Text, (b)(6)

Chairman's statement
in police station

Foreign Language Text

Foreign Language Text, (b)(6)

CENTCOM 005443

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26100

Pages 17 through 18 redacted for the following reasons:

Foreign Language Text, (b)(6)

6-IT6-045-00017

(b)(6)

DoB

(b)(6)

Job: Free business

Eye witness

Foreign Language Text

Foreign Language Text, (b)(6)