

DEPARTMENT OF THE ARMY

HEADQUARTERS, 101st AIRBORNE DIVISION (AIR ASSAULT) TASK FORCE BAND OF BROTHERS COB SPEICHER, IRAQ APO AE 09393

AFZB-JA-C

25 June 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of

(b)(5)

6-IT6-050

- 1. Identifying Data: HYDER ABID AL JABAR SALIH, Samarra, Iraq
- 2. Date and place the incident occurred giving rise to the claim: The claim occurred on 12 January 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 filed in a timely manner.
- 5. Facts: The Claimant alleges an IED detonated on a CF convoy and they started shooting randomly, killing his son. The Claimant provided witness statements and a death certificate to substantiate the claim. A SIGACTS investigation revealed no IED attacks in Samarra that day and no other incidents similar to Claimant's description of events.
- 6. Opinion: This claim is non-compensable under the FCA.
- a. 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. There is insufficient evidence to prove this claim.
- b. 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." Facts as alleged show CF were reacting to an IED, a combat activity.
- 7. Recommendation: The claim is denied.

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

CPT, JA FCC



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: 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:
 There is not enough evidence to prove your claim.
 The evidence shows that United States Forces did not cause the damage.
 The evidence shows that the damage was caused during combat.
 The evidence shows that the damage was caused by your own negligence or wrongdoing.
 The evidence shows that your claim was fraudulent.
 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)(2)High

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

CPT, JA FCC

TF Band of Brothers Claims Intake Form

POA/ATT	torney provided and interpreter approved:	
Decedents:	Torney provided and interpreter approved.	
Hometown:	Samura Iraqi Resident: Affirme	
My claim arose at:	(Town) Samarya (High way) (City) (Country)	
My claim arose on:	Month Day Year	
Proof of Ownership:_ VIN Match: Interpreter Approved		_ ī
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I claim as damages: (Ir \$ 5600		U.S. dollars and loc	al currency)	
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		(b)(3),(b)(6)		

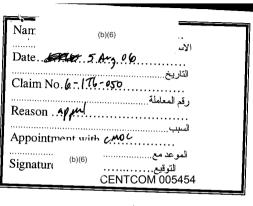
TF Band of Brothers Foreign Claims Cover Sheet

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Name:	(b)(6)
POA/ATT:	(b)(6)
Date Received	: 24 June 2006 Date of Incident: 12 June
Claim Amoun	t: 1550c Location: Samorra (Hig
Next Apt: 85J	Contact Info:
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Page 7 redacted for the following reason:
----Foreign Language, (b)(6)



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الموضوع التكار قضية

ب- ان الشكوى التي قدمتها قد تم رفضها للاسباب التالية :

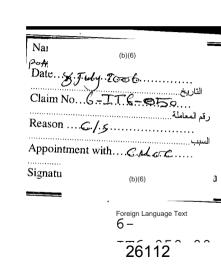
- (A)- لم توجد ادلة كافية لتثبت صحة القضية .
- .B. الادلة تبين ان قوات التحالف لم تتسبب بالحادث.
- (.C.) الادلة تبين ان الاضرار قد حصلت اثناء مصادمات .
- .D. الادلة تبين ان الحادث قد حصل نتيجة اهمالك او الخطىء الذي تسببت فيه .
 - .E. الادلة بينت ان الشكوى التي قدمتها هي محاولة احتيال .

ج- اذا كان هذا هو الوقت الاول بان قضيتك ينظر بها في هذا المكتب بستطيع ان تقدم استنناف 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 تظيف مستمسكات اخرى سوف ترفض القضية للمرة الثانية.

لمزيد من المطومات الاتصال بالنقيب روبرت ابوت بالرقم 1022 -845-

New Evidence on Append



Pages 11 through 12 redacted for the following reasons:

Foreign Lanugage Text, (b)(6)

Foreign Language Text

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Foreign Language Text, (b)(6)

Foreign Language Text

Approved by the Judge

Pages 14 through 15 redacted for the following reasons:

Foreign Lanugage Text Foreign Lanugage Text, (b)(6) VI: statement in the police stations.

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Foreign Language Text

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

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Foreign Language Text

Foreign Language Text, (b)(6)



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OFFICE OF THE STAFF JUDGE ADVOCATE
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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 بالادلة الكافية الى دائرة الشكاوي (السيماك) خلال مدة (60) ستون يوما من تاريخ اليوم او طلب التمديد (الأستنناف) خلال فترة ستون (60) يوما ,هذا سوف يسبب عدم تكوين تاكيد لقضيتي . ويسبب ذلك قضيتي سوف تترك و تغلق اداريا طبقا للقانون (دراب, ام 2-162, من الفقرة 13-3(ف).

2 وانا كذلك اوافق على اني اذا انتظرت اكثر من (60)ستون يوما من التاريخ المحدد من دائرة (السيماك) لأستلام 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)(0)			
Sworn before	, on	day of	200	

(h)(c)