



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

CENTCOM 005447

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26103

6-176250
8 Jul 06



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:

- 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)(2)High

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

CPT, JA
FCC

CENTCOM 005448

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TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission

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

POA/ATT: _____

† Power of Attorney provided and interpreter approved: _____

Decedents: _____

Hometown: Samarra † Iraqi Resident: Affirmative

My claim arose at: _____ Samarra (High way)
(Town) (City) (Country)

My claim arose on: Jan. 12 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) shot fire (b)(6) news sold, unfixd time

† Interpreter Approved: _____

Medical Report/Legal Expert Opinion: \$ 5000

† Interpreter Approved: _____

Witness Statement (Consistent?): Eye witness: lives at the same area, neighbor. while an (IED) detained on CF convey on the High way. CF convey members opened fire randomly due to that killed the claimant's son

† Interpreter Approved: _____ (b)(6)

Same story - Eye witness
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 12/1/2006 The claimant is a farmer who owned a farm with the beam of the High way and living at it with a mud house. When CF convey come through out the High way, an detained of (IED) in same line. CF convey members had shot fire randomly due to that my son (b)(6) got killed immediately according to death certificate and witnesses statements.

NEAR Highway → Right in Middle
(W. of SAMARRA)
NEAR BRASSFIELD-MONA

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

(b)(6)

(Sign: _____)

Subscribed before me this 24 day of June, 2006

(_____
(_____

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

TF Band of Brothers
Foreign Claims Cover Sheet

File #: 6-IT6-050

Name: _____ (b)(6)

POA/ATT: _____ (b)(6)

Date Received: 24 June 2006 **Date of Incident:** 12 Jan 2006

Claim Amount: \$5000 **Location:** Samarra (Highway)

Next Apt: 8 July 2006 **Contact Info:** _____

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

Further Investigation:

*Double check
research*

*Appeal denied
I/E
7/22/06*

*No record of IED
or SAF in local area*

Check Sigacts Nothing found

Denied I/E, C/E 25 June (b)(3),(b)(6)

Not recommended: _____

Denied: _____

MVA **RAID** **LOST** **NEG FIRE** **REAL**

OTHER: _____

CENTCOM 005451

12 2200 JAN 06 rabbit attack PB Olsen

(b)(2)High

No IED Detonations on 12 Jan

None

CENTCOM 005452

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Page 7 redacted for the following reason:

Foreign Language, (b)(6)

Name	(b)(6)	الاسم
Date	5 Aug 06 5 Aug 06	التاريخ
Claim No.	6-176-050	رقم المعاملة
Reason	appel	السبب
Appointment with	CMOC	الموعد مع
Signature	(b)(6)	التوقيع
CENTCOM 005454		

- 6 -
26110

الموضوع / انكار 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 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 المشتكى المزيد من المستمسكات لاثبات صحة القضية اذا ارسلت الاستئناف فيما بعد او لم تنظيف مستمسكات اخرى سوف ترفض القضية للمرة الثانية.
- لمزيد من المعلومات الاتصال بالنقيب روبرت ابوت بالرقم 1022-845-318

New Evidence
on Appeal

Nar	(b)(6)
Date... ^{POA} 8 July 2006.....	التاريخ
Claim No... 6-IT6-050.....	رقم المعاملة
Reason ... C/S.....	السبب
Appointment with... C.M.O.C.....	
Signatu	(b)(6) ال

Foreign Language Text

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Pages 11 through 12 redacted for the following reasons:

Foreign Lanugage Text, (b)(6)

6-IT6-050-00011

Claimant statement in police station.

Foreign Language Text, (b)(6)

Foreign Language Text

Approved by the Judge

CENTCOM 005459

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Pages 14 through 15 redacted for the following reasons:

Foreign Lanugage Text

Foreign Lanugage Text, (b)(6)

6-IT6-050-00014

w1 statement in the police stations

DOB:

(b)(6)

Job:

Foreign Language Text

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

w2 statement in the police stations

DOB:

(b)(6)

Job:

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

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.

(b)(6)

Claimant Signature: _

Sworn before _____, on ____ day of _____ 200 ____.

CENTCOM 005463