

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



DEPARTMENT OF THE ARMY
Headquarters, 1st Brigade Combat Team
10th 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-T042

1. Claimants name and address (b)(6), Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 1 July 2007 in Sherkat, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$2,500.00 on 20 November 2007.
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 in a taxi with his family traveling from Hawijah to Sherkat. He claims a Coalition Force convoy fired on the taxi killing his son.
 - b. There were I.D. cards, death certificate and a power of attorney 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.

CENTCOM 020383

08-IH4-T042-00002

28745

AFZS-LI-JA
SUBJECT: Claim of (b)(6) 08-IH4-T042

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)

CPT, JA /)
Foreign Claims Commissioner

U.S. GOVERNMENT
PURCHASE ORDER-INVOICE-VOUCHER

DATE OF ORDER 17-Mar-08		ORDER NO	(b)(2)High
TO: (b)(6) A. NAME (b)(6) Y. Kirkuk, Iraq C. E.			
From: Supplier or Services to (Name and Address)			
1BCT Condolence Funds		1BCT	
SUPPLIES OR SERVICES	QTY	UNIT PRICE	AMOUNT
Condolence payment to payee for an EOF incident that occurred 1 Jul 07	1	\$2,500.00	\$2,500.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
\$2,500 US Dollars @ 1213 IQD			\$0.00
IQD 3,032,500			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
AGENCY NAME AND BILLING ADDRESS:		TOTAL \$2,500.00	
F. 15th Finance BN A. F Detachment, FOB Warrior Y. Kirkuk, Iraq D. APO AE 50035		DISCOUNT TERMS 0 % 180 30 DAYS DATE INVOICE RECEIVED 17-Mar-08	
OR (b)(3), b(6)			
(b)(2) High (b)(3), b(6)			
UNIT RE	DATE 17-Mar-08		
TITLE	SELLER - Please read instruction on Copy 2		
PAYMENT RECEIVED	PAYMENT REQUESTED		
NO FURTHER INVOICE NEED BE SUBMITTED			
Received (b)(6)	Today's date 17-Mar-08		
certify that this account is correct and proper for payment in the amount of \$2,500.00 Rate: 1213 IQD 3,032,500		DIFFERENCES	
(b)(3), b(6)		ACCOUNT VERIFIED CORRECT FOR	
(b)(3), b(6)		BY	
PAID BY	CASH	DATE PAID	VOUCHER NO
		17-Mar-08	



DEPARTMENT OF THE ARMY
 Headquarters, 1st Brigade Combat Team
 10th Mountain Division (Light Infantry)
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 APO AE 09338

AFZS-LI-JA

16 March 2008

MEMORANDUM FOR Commander, 1st Brigade Combat Team, 10th Mountain Division (Light Infantry),
 Forward Operating Base Warrior, Iraq, APO AE 09338

SUBJECT: 1BCT CERP CONDOLENCE FUND

1. The purpose of this memorandum is to request a condolence payment be made to (b)(6) using the 1BCT, 10th MTN DIV (LI) CERP Condolence Fund. On 1 July 2007, Mr. (b)(6) son was in a taxi with his family traveling from Hawijah to Sherkat. The taxi was then involved in an escalation of force incident with Coalition Forces which resulted in the death of his son.

2. Description of how these monies will support the 1BCT, 10th MTN DIV (LI) Commander's intent and spending priorities for CERP funds: These payments will support the strong relationship the 1BCT has with the local populace by expressing our regret for death of Mr. (b)(6) son.

3. List the specific items or services requested in the table below:

#	Items to be purchased or service rendered	Unit Price	Quantity	Total Price
1	Payment for death	\$2,500.00	1	\$2,500.00
Total:		\$2,500.00	1	\$2,500.00

4. The transaction can be completed at one time with one payment.

5. POC for this action is CPT (b)(3), b(6) VOIP 242-2626, (b)(3), b(6), (b)(2)High

This condolence payment is legally sufficient / insu

(b)(3), b(6)

CPT. JA
 Foreign Claims Commissioner

(b)(3), b(6)

I approve/disapprove this condolence payment.

COL. IN
 Commanding

CERP CONDOLENCE PAYMENT WORKSHEET

TYPE OF CERP CONDOLENCE PAYMENT: Regional Level Quick Impact Fund

MILITARY UNIT COORDINATING PROJECT: HHC, 1BCT, 10th MTN DIV (LI), Foreign Claims Commissioner

MILITARY UNIT CONTACT INFO FOR PROJECT

NAME: CPT (b)(3), b(6)

PHONE: VOIP 242-2626

NIPR EMAIL: (b)(3), b(6), (b)(2)High

NAME THE PROJECT: CERP Condolence Fund Payment to (b)(3), b(6) for the death of his son.
(reference Claim No. 08-IH4-T042)

PROJECT LOCATION: Kirkuk, Iraq

PROJECT DESCRIPTION: CERP Condolence Payment to (b)(3), b(6)

DESCRIBE DIRECT BENEFIT TO IRAQI POPULATION: Condolence payments are designed to promote and maintain friendly relationships with local nationals. A condolence payment is intended to express sympathy for death, injury, or property damage caused by U.S. or Coalition Forces during combat activity. It is not an admission of guilt.

COST (U.S. Dollars) AND JUSTIFICATION: \$2,500.00. On 1 July 2007, Mr (b)(6) son was in a taxi with his family traveling from Hawijah to Sherkat. The taxi was then involved in an escalation of force incident with Coalition Forces which resulted in the death of his son.

NAME AND POSITION OF IRAQI WHO WILL ASSUME RESPONSIBILITY FOR THE COMPLETED PROJECT (Responsible Iraqi): (b)(6)

ESTIMATED DAYS REQUIRED TO COMPLETE PROJECT: 1

Sigact

name 3-25 07:003

type SAF

timeobservedlong 07/01/07 08:10

textComments Initial Report: At 010910JUL2007 2-27 IN reported an EOF in the Kirkuk Province west of Hawijah at (b)(2) High. A B/2-27 IN patrol conducted an EOF on a LN vehicle; 2x LNs killed and 1x wounded (Urgent Surgical). MTF Follow Up Report: UPDATE: The B/2-27 IN patrol was westbound on (b)(2) High when a LN taxi carrying 5x passengers, moving east, passed 6x other vehicles which were stopped on the side of the road. The lead vehicle gunner (b)(2) High a 3x round burst from a (b)(2) High to the north side of the road at (b)(2) High and the vehicle continued towards the patrol showing no signs of slowing down or changing course. The gunner then fired 10x rounds of (b)(2) High to disable the vehicle; the vehicle came to a stop (b)(2) High from the patrol. The patrol cleared the vehicle and began to administer aid. 2x LNs were killed and 1x LN was wounded, abdominal wound. The vehicle caught fire and was destroyed. The casualty was CASEVACed to PB Baker and then MEDEVACed to FOB Warrior. CLOSED 011313JUL07

Grid Coords (b)(2) High

affiliation FRIEND

color Blue

outcome EFFECTIVE

place name Kirkuk Province

zone 2-27 IN

event quantity

ENEMY DETAINED

COALITION INV

COALITION KIA

COALITION WIA

ENEMY INV

CLAIM FOR DAMAGE .OR INJURY DEATH		INSTRUCTION: Please read carefully the instruction on the reverse side and supply7 information requested on both sides of this form .Use additional sheets (s)		person From approve MBC
1.submitt to appropriate Agency (b)(6)		2-.Name of claimants &Address (b)(6) POA (b)(6)		
3.TYPE OF EMPLOYEE	4.DATE OF BIRTH (b)(6)	5.MARITAL STATUS Married	6.DATE & DAY OF ACCIDENT 1 st Jul.07	TIME: 10:00 PM
<p>The claimant's son has wrongfully killed by the CFS convoy on the way between Hawija to Sherkat. the diseased was with his family were in a taxi when the convoy opened fire, he passed away in Tikrit's hospital.</p>				
9. PROPERTY DAMAGE				
NAME AND ADDRESS OF OWNER THAN CLAIMANT (NUMBER, street, city, state, city, state, and, zip code)				
(b)(6)				
De				
10 Personal injury/wrongfully death				
WITNESSES				
NAME		ADDRESS		
(b)(6)		Hawija Hawija		
Amount of claim (IN Dollars)				
12A PROPERTY	12b PERSONAL INJURY	12c WRONGFUL DEATH \$ 2,500.00	12A \$ 2,500.00	
I CERTIFY THAT AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURY CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM				
13a.SIGNATURE OF CLAIMANT		13b.Phone number of signatory (b)(6)	14c.Date of claim 20 th Nov.07	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		

Identification card

Office: Sherkat

Number:

Name:

Father's name:

Mother's name:

Gender: Male

Issue date: 2006

Religious: Moslem

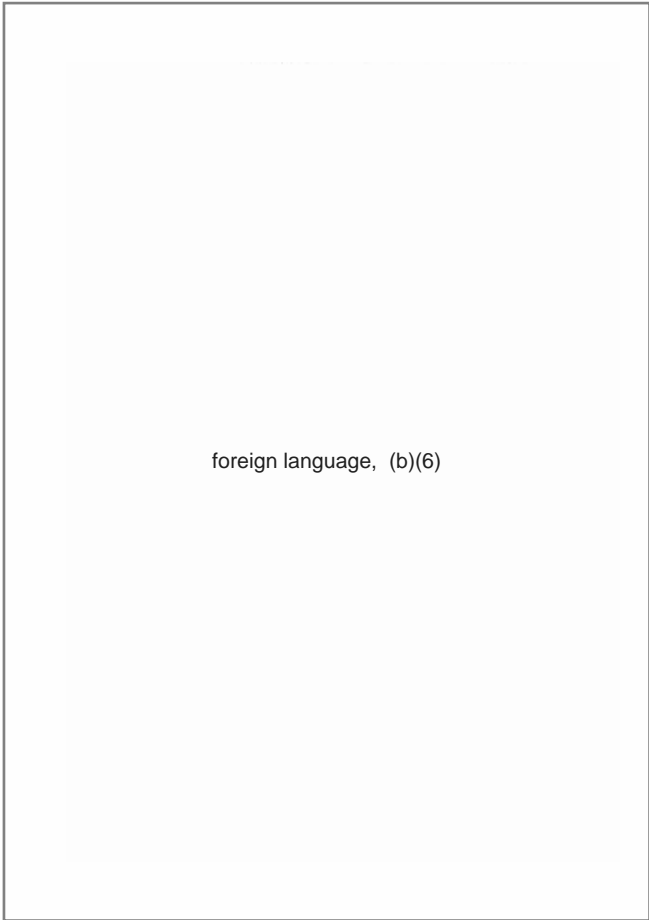
Date of birth:

Place of birth:

Statuses: Married

Wife's name:

Physical disablement: -----



Identification card

Office: Sherkat

Number: (b)(6)

Name: (b)(6)

Father's name: (b)(6)

Mother's name:

Gender: Male

Issue date: 1995

Religious: Moslem

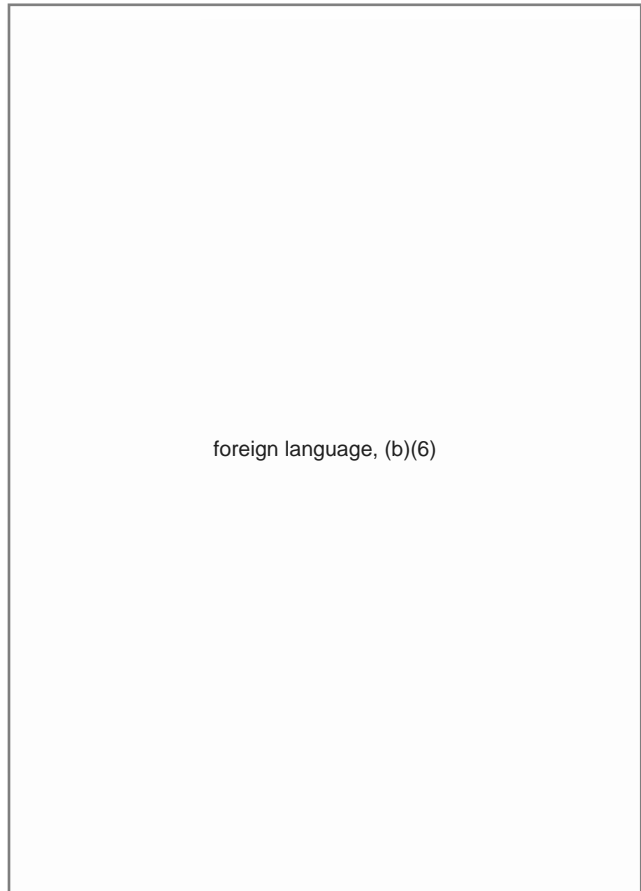
Date of birth: (b)(6)

Place of birth: (b)(6)

Statuses: Single

Wife's name: -----

Physical disablement: -----



foreign language, (b)(6)

Death certificate

Health department

Number (b)(6)

Date: 2nd Jul.07

Deceased name: (b)(6)

Sex: Male

Nationality: Iraqi

Religious: Moslem

Job: (b)(6)

Statues: Single

Birth date: (b)(6)

Date of death: 1st Jul.07

Place of death: (b)(6)

Reason of death: Bleeding

Fathers name: (b)(6)

Signed by coroner doctor : (b)(6)

on: 1st Jul.07

foreign language, (b)(6)

Page 14 redacted for the following reason:

(b)(5),(b)(6)

foreign language, (b)(6)

Abassy Police station

To investigator Judge / Hawija

your decision on July 18-2007

1- we send you [redacted] (b)(6), please take his statements according to the law and make the proper judgement.

2- Your memo in July, 30, 2007 about request of [redacted] (b)(6) [redacted] (b)(6) which he request a copy of investigation about [redacted] (b)(6), please look at it and make proper judgement.

1- The statements of personal complaints investigated from [redacted] (b)(6) the mother of victim.

[redacted] (b)(6)

2- Birth certificate of the victim

3- The investigation will complete according to the

foreign language, (b)(6)

Hawija investigation court.

date 06-08-2007.

(9)(q) , mother of victim infant. (9)(q)
(9)(q) - born in (9)(q) (9)(q) Lives in (9)(q)
(9)(q) , she stated the following.

The night of incident (9)(q) my husband sister
she was a guest in our house, tomorrow morning, she and my son
(9)(q) went (9)(q) in Hawija by
a Taxi, drivers name, (9)(q) From (9)(q)
area. my relatives called me that the vehicle which my
son (9)(q) was in it been shot by
Coalition Forces resulted of ~~him~~ killing my son and ~~my~~
~~brothers~~ ^{her} son. (9)(q) (9)(q)

Illegible Text, Nonresponsive

herself and driver got injured. Far Had I submit my complaints
against Coalition forces and ask for compensation
Her finger print

Judge
(9)(q)

06-08-2007.

foreign language, (b)(6)

Abassy police station
20 of July 2007.

(9)(a) born (9)(a) ~~has~~ lives in (9)(a)
(9)(a) (9)(a) she states as following.

The night of incident (9)(a) she is my ^{husband} ~~brother~~
sister was a guest at our house for tomorrow morning she
went home with my son (9)(a) to Hawija by
a Taxi, drivers name (9)(a) From (9)(a)
my relatives called me that the vehicle that carry my son
(9)(a) been shot by coalition forces
convoy which resulted in killing my son and my brother
son for that I submit my complain against coalition
forces -

Her Finger print

signed by
investigator officer

foreign language, (b)(6)

Abassy police station

TO : Investigation Judge / Haurija

(9)(a) was present in our station, she stated that the coalition forces opened fire on the vehicle that she was ~~in~~ in it - which ended in killing 10 children names - (9)(a) and injured the driver (9)(a) and burnt the vehicle totally - and she wrote complaints against coalition forces - for that we ask to approve her statement and make proper judgement.

(9)(a)

investigation officer

- 1- statements of injured (9)(a) attached with paper
- 2- statements of Victim Father (9)(a) attached.
- 3- statements of victim father (9)(a)
- 4- Incident report
- 5- Crime scene check report
- 6- death certificate of victims
- 7- Injured persons conditions and doctors report

signed by

(9)(a)

the judge

(b) (6) foreign language

Abassy polic station

01-07-2007.

Incident report

We found out there is an injured personal in medical center of Abassy, that injured by coalition forces and then transferred to national hospital, Her name (9)(q) (9)(q) From Hawija (9)(q) neighbourhood, she been injured with number of bullets for that, we start investigation.

signed by investigator officer barn

The injured (9)(q) (9)(q) Lives in (9)(q) she said the following.

That morning I got out of house located in (9)(q) (9)(q) accompanied by a driver name (9)(q) and brother son (9)(q) and my children. we arrived across the Arassa village, we surprised a us military check point, immediatly the opened fire started shooting at us, I got wounded my left leg, and I donot know what happened to the driver and my brother son (9)(q) and my son (9)(q), may be all American took them to their base, for that I put my claim and ask for compensation.

signed by investigator officer

signed by (9)(q)

foreign language, (b)(6)

Hadija investigation court.

07-18-2007.

The claimer [redacted] (9)(q) born [redacted] (9)(q) lives in [redacted] (9)(q) stated the following.

- At 9:00 Am of 07-01-2007 Abassy police station called me and informed me that my wife [redacted] (9)(q) and my son [redacted] (9)(q) and my wifes brother son [redacted] (9)(q) been shot by a courier of US military forces result of wounding my wife in her left leg and also wounding taxi driver [redacted] (9)(q) and killing both my son and wifes brother son. the incident happened near Arrassa village of Abassy town, for that I put my claim against US forces.

signed by
Judge

[redacted] (9)(q)

signed by
Victim father

[redacted] (9)(q)

foreign language, (b)(6)

Abassy investigation court
07-18-2007

(b)(6), born in (b)(6) lives
in (b)(6) state the following.

The morning of that day 07-01-2007 my sister was with
us and she went back to Hawija with my son and her son
and the Taxi driver. on their way to Hawija near Arrassa
village of Abassy town, they been shot by US forces, which
they killed my son (b)(6) and my sister son
(b)(6) and wounded my sister and the
Taxi driver (b)(6) - for that, I put my claim
against US forces.

signed by
judge

(b)(6)

signed by
Victims father

(b)(6)

foreign language, (b)(6)

Abassy investigation court.

07.18.2007.

(b)(6) born in (b)(6) Lives in (b)(6) state the following.

The morning of 07-01-2007. Me and my son (b)(6) and my brother son (b)(6) and the Taxi driver (b)(6) we were going from Hiji village to Hawija, near the Arrassa village, there was a convoy of us forces. The driver got closer to the convoy more than allowed to be and they started open fire on our vehicle, they shot me on my left leg and killed both children and wounded the Taxi driver - for that, I put my claim against us forces -

Judge

(b)(6)

Finger printed

(b)(6)

(g)(b) foreign language, (b)(6)

Republic of Iraq

No: (9)(9)

date: 07-01-2007

Doctors report-

I am the doctor signed below did the medical services to the person name (9)(9) age (9)(9) year old female on 07-01-2007 at 10:00 am, according to the memo from Abassy police station numbered (9)(9) on 07-01-07 I found out that:-

- 1- she was awake during the medical check.
- 2-
- 3- There was entrance and exit ~~spots~~ on bullet spot shown on her left leg
- 4- There was a bullet spot shown on her leg.
- 5- Her general medical condition was stable and put under care she needs medical care for wounded spot for 20 days.

For her I wrote this report and send it to the Abassy police station

signed by
Doctor

(9)(9)

foreign language, (b)(6)

foreign language, (b)(6)

Abassy police station

To- Hawija police directorate - / operations

date of report: 07-01-2007.

report no: [redacted]

(b)(6)

At 9:00 am today we inform of a killing incident on high way connect Abassy and Hawija near Arrassa villegc.

an the crime sence, we found out that a ~~Protax~~ a vehicle Diaw model red color been shot by coalition forces which resulted killing two children, [redacted] and [redacted] and wounded the driver [redacted] ~~on~~ his other names unknown, and injured [redacted] [redacted] been transfered to Abassy health center but dead body's been taken by coalition forces.

(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

The incident ended to total damage to the vehicle, we did our search on the crime sence, and we will inform you if we will get more information

maj

[redacted]
(b)(6)

station officer.

(b)(6), foreign language

Abassy police station

To: Hawija police directorate / operations

At 9:00 am on Sunday of 07-01-2007. we been informed that there is a murder incident on Hawija high way near Arrassa village, After we went to the crime scene, it was ~~clear~~ shown that the incident is about a civilian vehicle model supeer red color made (9)(q) been shot by US forces which resulted of killing driver (9)(q) father's name unknown an (9)(q) father's name unknown and wounded (9)(q) born (9)(q), (9)(q) lives in (9)(q) and second injured (9)(q) been transeferal to the Abassy health center, and death and other injural been taken by US forces to the FOB. meckenary

maj:

(9)(q)

station officer

Abassy police station

TO - Abassy medical center

subject, check

please do necessary medical treatment to the wounded person-

(b)(6)

and report us back -

maj. police

(b)(6)

station officer