



DEPARTMENT OF THE ARMY
Headquarters, 3rd Brigade Combat Team
3rd Infantry Division
FOB Warhorse, Iraq
APO AE 09397

REPLY TO
ATTENTION OF:

AFZP-VI-JA

17 August 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 05-IA5-1265

1. Claimants name and address: (b)(6) Baqubah (b)(6) Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 25 May 2005 in Al Abarra, Iraq
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$5,000.00 on 10 August 2005.
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 compensation for son's death.
5. Claimant's Allegations:
 - a. Claimant's son went to his uncle's house were Coalition Forces where conducting a raid when he was shot mistakenly for an insurgent.
 - b. There was witness statements included in the submitted claim.
6. Investigator's Opinion:
 - a. In order to form a basis for a claim under the FCA, the incident in question must have arisen outside the United States. In addition, the incident must be caused by either non-combat activities of the United States Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

CENTCOM 000549

PAYMENT REPORT

TO: DFAS, DSSN: (b)(2)Hig Date: _____

A. Payment Data:

- (1) Submitting Agency/Office: United States Army Claims Service
- (2) Office Code: IA5
- (3) Agency/Office Mailing Address: _____
- (4) Date Claim Filed: 10 August 2005
- (5) Claim Number(s): 05-IA5-1265
- (6) Amount Claimed: \$ 5,000
- (7) Fund Cite: _____ (b)(2)High
- (8) Payee(s): _____ (b)(6)
- (9) Address: _____ (b)(6) raq
- (10) SSN: None.
- (11) Payment Amount: \$4,000
- (12) Type Payment: PF _____
- (13) For EFT Payments: ABA Routing Number: _____
- (14) For EFT Payment: Account Name and Number: _____
- (15) For EFT Payment: Name and Address of financial institution: _____
- (16) For EFT Payment: Account is (checking) (savings) (Circle appropriate account).

B. ACCEPTANCE BY CLAIMANT (Note: This form should not be signed by the claimant if another release is signed by the claimant is attached.)

I, the claimant, do hereby accept the within -stated award, compromise, or settlement as final and conclusive on my heirs, executors, administrators or assigns, and agree that said acceptance constitutes a complete release by me, my heirs, executors, administrators or assigns of any and all claims, demands, rights, and causes of action of whatsoever kind and nature, arising now or in the future from, and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries (including wrongful death), damages to property, breaches of contract or law, and any other acts or omissions, and the consequences therefore resulting, and to result, from the same subject matter that gave rise to the claim for which I or my heirs, executors, administrators, or assigns, and each of them, now have or may hereafter acquire against the United States and against the employee(s) of the Government whose acts or omissions gave rise to the claim by reason of the same subject matter. I further agree to reimburse, indemnify and hold harmless the United States, its agents, servants and employees from any and all claims or causes of action, including wrongful deaths, that arise or may arise from the acts or omissions that gave rise to the claim(s) by reason of the same subject matter.

Date: Aug 20 05, ds (b)(6), Foreign Language T _____ (Claimant)

C. AGENCY CERTIFYING OFFICER:

Pursuant to authority vested in me, I certify that this Payment Report is correct and proper for payment.

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

10 Aug 05 _____ FCC
(Date) (Signature Authorized Certifying Officer) Title

Date Payment Recorded in Claim Record: _____

A separate payment report must be completed for each claimant

Privacy Act Statement

The information is required in accordance with 31 U.S.C. 1304. The data you furnish will be used to certify your claim for payment. Failure to provide this information may result in your claim not being processed for payment.

Claims Form

To: United State:
From: Name: _____ (b)(6)
Address: _____

I am

- a. A citizen and national of: Iraq
- b. A permanent resident of: _____
- c. Employed by: _____
- d. Check one () An insurer () Not an insurer
- e. Check one () A subrogee () Not a subrogee

I hereby make a claim against the United States Government for damages or injuries caused by:
(Name, Organization, Military Department, Address, Telephone Number)

_____ CF _____

The property damaged is owned by: (If the claim is made as an agent, parent, or guardian, attach a power of attorney or other evidence of authority and fill in the form below for party sustaining the damage or injuries.) _____

My claim arose at: _____ (b)(6) Baghdad Iraq
(Town) (City) (Country)

My claim arose on: May 25 2005
Month Day Year

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's son went to home where his uncle lives. Uncle's house was being raided by CF. Fire fight broke out. Claimant's son heard gunfire and thought someone was attacking his uncle so he ran into hallway and was shot by CF who thought he was an insurgent.

Describe nature and extent of property damage or personal injury sustained as a result of the above incident.

Death of Son

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>
<u>Death of Son</u>	

Total: 5,000

I was insured to the following extent against the damage or injuries I have sustained:

~~_____~~

The name and address of my insurer (if any) is:

<u>(Name)</u>	<u>(Address)</u>
_____	_____

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

\$ 5,000 local _____

(b)(6)

(Signature of Claimant)

Subscribed before me this 10 day of Aug 2005

(P)

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

(S)

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Subject: Request for compensation

Dear sir,

I am the claimant (b)(6) the mother of the died son (b)(6)) I was born in (b)(6) and worked as a (b)(6) lived in (b)(6) Khurnabat district and the chief of the city is (b)(6)

in 25/5/2005 and exactly 6 o'clock in the morning my son who is in age (b)(6) years old and he was sleeping at the time when the American Forces came unexpectedly to our area he waked up when he heard the sounds of fire shooting at his uncle's house (b)(6) which is away from our house about 50m proximately and he went out to see what had happened. At that time the American forces and (ING) forces were being in our district and they interred to the house of his uncle and started shooting fire and since he entered the house he was killed by those forces and here I am requested to write down a statement of complaint against the coalition forces and (ING) forces and I have witnesses who saw accident since my husband is (b)(6)

(b)(6)

I wish you were taking my request in your consideration and order us a suitable compensation to pass the bad time we are in and to cover our daily necessities.

I have certified all the investigation papers by the Iraqi judgement and I have witnesses for the accident.

The Claimant

(b)(6)

27/7/2005

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Al-Abara police station

Date : 25/5/2005

Dear sirs,

In 25/5/2005 in this date the Iraqi National Guards (ING) that belong to (b)(6) battalion brought to us the died child body who is in age (b)(6) years who was killed by fire shooting and he sent to the hospital to complete the investigation.

The police officer

(b)(6)

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Baquba investigation court

Date : 20/7/2005

Subject: Statement of witness of the claimant (b)(6)
(b)(6)

The mentioned below is the statement of witness of the mother of the died son ((b)(6)) who was born in (b)(6) and worked as a housewife lived in (b)(6) Khurnabat district and the chief of the city is (b)(6) she confesses that :

I am the mother the murderer (b)(6) who was killed in 25/5/2005 and exactly 6 o'clock in the morning who is in age (b)(6) years old and he was sleeping at that time and waken up on the sounds of fire shooting at his uncle's house (b)(6) which is (b)(6) proximately and he went out to see what had happened. At that time the American forces and (ING) forces were came unexpectedly to the house of his uncle and they are shooting fire and since he entered the house he was killed by these forces and here I am requested to write down a statement of complaint against the coalition forces and (ING) forces and I have witnesses who saw accident since my husband is sick (b)(6) (b)(6) and this is my witness.

This statement was certified by the investigation judge of Baquba court (b)(6) and (b)(6) police station officer (b)(6)

The claimant
(b)(6)

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Baquba investigation court

Date : 21/7/2005

Subject: Statement of witness

Here we are the statement of witness of the citizen (b)(6)
(b)(6) who born in (b)(6) and work and a soldier in (ING)
Al-Abara battalion lived in (b)(6) and the chief of the city
(b)(6) and he confesses that :

In 25/5/2005 the time was 6 o'clock in the morning and I have
on duty in the area which located between (b)(6)
and the soldier (b)(6) and our
duty on the river of (Kuraisan) and when we heard the sounds of fire
shooting in the area and the fire shooting is against the house of the
died person ((b)(6)) and we have transferred quickly to
this area and the found the American forces are there and they bear
the body of the died child and they put that body on the pickup that
belong to (ING) and we have been informed by the commander (b)(6)
(b)(6) Battlion (Major (b)(6)) who ordered us to convey
the body of died child and give it (b)(6) police station and we
have did saw. For your information one of our guards was injured
whose name is (b)(6) and I haven't know his fathers name and
he was died at once. And the second guard who injured also was
transferred to the hospital and I haven't seen by my eyes the persons
who were shooting fire on that person. This is my witness

This statement was certified by the investigation judge of
Baquba court (b)(6)

The witness

(b)(6)

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Baquba investigation court

Date : 21/7/2005

Subject: Statement of witness

Here we are the statement of witness of the citizen (b)(6) who born in (b)(6) and work and a soldier in (ING) (b)(6) battalion lived in Kharnabat and the chief of the city (b)(6) and he confesses that :

In 25/5/2005 the time was 6 o'clock in the morning and I have on duty in the area which located between (b)(6) and Kharnabat and the soldiers (b)(6) and our duty on the river of (Kuraisan) and when we heard the sounds of fire shooting in the area and the fire shooting is against the house of the died person (b)(6)) and we have transferred quickly to this area and the found the American forces are there and they bear the body of the died child and they put that body on the pickup that belong to (ING) and we have been informed by the commander (b)(6) Battlion (Major (b)(6)) who ordered us to convey the body of died child and give it (b)(6) police station and we have did saw. For your information one of our guards was injured whose name is (b)(6) and I haven't know his fathers name and he was died at once. And the second guard who injured also was transferred to the hospital and I haven't seen by my eyes the persons who were shooting fire on that person. This is my witness

This statement was certified by the investigation judge of Baquba court ((b)(6)

The witness

(b)(6)

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Al-Abara police station

Date: 31/5/2005

Subject : investigation report for the place of accident

Here we are mentioned the investigation report for the place accident as it is :

1. The place of accident is a living house.
2. The place of accident is away from our police station about 2km .
3. I have seen a fire shooting at the out gate of the house and the doors of inside rooms.
4. I have seen blood spots inside one of the rooms.
5. I have seen two cars which were shot by fire.

This report was done by the police of investigation (1st lieutenant (b)(6)

IN THE NAME OF ALLAH

To: CMOC in Baquba – Diala

Diala health office

Subject: An anatomy report

To: Al-Abara police station.

I am the doctor (b)(6) I have done the anatomy operation for the body of the died person (b)(6) sent on 25/5/2005.

The causes of death by fire shooting which caused destroying and damages for the organs of the body on the chest of the person broken and damaged all bones of the body. Broken the bones of the chest ,and bleeding.

This report signed by (Dr. (b)(6)) in (b)(6) health office



Page 16 redacted for the following reason:

Foreign Language, (b)(6)

