

5-IA3-1355

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CENTCOM 000564





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

REPLY TO  
ATTENTION OF:

AFZP-VI-JA

30 August 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6)

1. Claimants name and address: (b)(6), Buhriz, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 16 January 2005 in Buhriz, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$5,000.00 on 24 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 wrongful death of his brother.
5. Claimant's Allegations: Claimant states that CF raided his coffee shop and wrongfully shot and killed his brother.
6. Investigator's Opinion:
  - a. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. Additionally, the reasons for denial of this claim are included in paragraph b.
  - b. The research conducted revealed that there is absolutely no proof of United States negligence. There was not enough evidence to prove this incident occurred.
7. Recommended Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$5,000 is disapproved.

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

CPT, JA  
Claims Judge Advocate

CENTCOM 000566

5-IA3-1355-00003

CLAIMS FORM

To: United States Army Foreign Claims Commission

From: Name: \_\_\_\_\_ (b)(6) \_\_\_\_\_  
Address: \_\_\_\_\_

I am

- a. A citizen and national of: Iraq
- b. A permanent resident of: \_\_\_\_\_

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

CP

The property damaged is owned by: \_\_\_\_\_

My claim arose at: \_\_\_\_\_ Burhiz \_\_\_\_\_ Iraq  
(Town) (City) (Country)

My claim arose on: Jan \_\_\_\_\_ 16 \_\_\_\_\_ 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 states CP ransacked coffee shop  
in Burhiz and shot his brother.  
says everyone was lined up on ground and his  
brother was shot.

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 brother</u>	

Total: 5,000

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 24 day of August, 2005.

\_\_\_\_\_  
(Pr) (b)(3), (b)(6)  
\_\_\_\_\_  
(Si)

M 000567

**In the name of Allah**

**Buhriz Police Station**

**Nu./ 2596**

**Date/14/8/2005**

**To/ Compensation Committee the Governorate**

**Subject/ Suit Referring**

According to decision of the judge in 26/7/2005

We send you the investigation copies which concern with the victim <sup>(b)(6)</sup>  
<sup>(b)(6)</sup>, we would like to receiving it and tell us .. with  
regards.

Attachments

Investigation Copies

Maior

<sup>(b)(6)</sup>

Station Officer

CENTCOM 000568

5-IA3-1355-00005

**Buhriz Police Station**  
**17/1/2005**

### **Open of Investigation File**

At this morning, (b)(6) came to our station and wanted to inform us about the incident of murdering of his brother, (b)(6) (b)(6) who killed by the American forces when they entered to Buhriz. For that we started the investigation.

First Lie.  
Investigation Officer

Deposition of (b)(6) who born on 1965, he work as an (b)(6) , live:

In 16/1/2005 and about 4:00 pm, the American forces entered to Buhriz toward the market and they started shooting randomly toward the walkers people and who were sitting in the coffee shops. My brother, (b)(6) , was site in one of these coffees in Buhriz and he injured as a result of American's shooting, then he was moved to Baquba general hospital. As a result of this wound, he passed away. Then the dead body was given to the judicial medicine, and I have witnesses of this incident and I want the claim and compensation of the American forces. That is all and this is my deposition.

Claimant  
(b)(6)

First Lie.  
(b)(6)  
Investigation Officer

CENTCOM 000569

5-IA3-1355-00006

**Buhriz Police Station**  
**17/1/2005**

Deposition of the victim's mother, (b)(6), who  
born on (b)(6) she is (b)(6), lives in Buhriz/Aljaneb Alsagher, name  
of her (b)(6) She says:

At date of the incident, on Sunday 16/1/2005 and when the American  
forces were entering Buhriz /Al-Shani, my husband, (b)(6)  
(b)(6) and I were existing in our home which its locate in Buhriz/  
near the market, and after withdrawal of the American forces, someone  
came to our home and told us that my son faced with shooting by the  
American forces, and he is in the hospital. After that my husband and I  
went to my son's home which its locate in Hai Saddam and we had  
informed that he passed away as a result of his injured. Now I'm asking  
for the claim and indemnification against the American forces, this is my  
deposition.

Victim's Mother  
(b)(6)

Lieutenant  
(b)(6)  
Investigation Officer

CENTCOM 000570

5-IA3-1355-00007

**Baquba Investigation Court**  
**25/1/2005**

Deposition of the claimed of the personal right, mother of the victim, (b)(6)  
(b)(5) her name is (b)(6) born on (b)(6), (b)(6),  
lives in Buhriz /Aljaneb Alsagher, name of mekhtar is (b)(6) She  
say:

The victim, (b)(6), is my son and I lives in separated house from my  
son's house and in 16/1/2005 time was about 5:00 pm I heard from people  
that the American forces entered to Buhriz and shooting randomly toward  
the people in Al-Shani coffee, my son was injured as a result of shooting  
then he passed away. The American forces started with detention all the  
people in the coffee. I'm asking for the claim and compensation against  
the American forces, this is my deposition.

Claimed of the personal right  
(b)(6)

Judicial Investigation

**Buhriz Police Station**  
**17/1/2005**

Deposition of the claimed of the personal right, victim's father, (b)(6)  
(b)(6), born on (b)(6), an earner, lives in Buhriz / Aljaneb  
Alsagher, name of his mekhtar is (b)(6). He says:

In date of the incident I can't remember date exactly and when the American forces entered Buhriz and at that time I was existing in my home which its locate near Buhriz market and after withdrawal of the American forces from Buhriz, someone came to my home and told me that my eldest son, (b)(6) was injured by the American forces in Al-Shani when he was in one of the coffees there and he was moved to the hospital. After that my wife, (b)(6) and I went to our son's home which its locate in Hai Saddam in order to know what happened and when we arrived there I heard that my son passed away as a result of the wounds. At this time I'm asking for the claim and indemnification against the American forces. This is my deposition.

Victim's Father  
(b)(6)

Lieutenant  
(b)(6)  
Investigation Officer

CENTCOM 000572

5-IA3-1355-00009

**Baquba Investigation Court**  
**25/1/2005**

Deposition of the claimed of the personal right, victim's father, (b)(6)  
(b)(6), born on (b)(6), an earner, lives in Buhriz / Aljaneb  
Alsagher, name of his mekhtar is (b)(6) He says:

In 16/1/2005, I was in home and I heard from people in Buhriz that the American forces entered Buhriz and they started shooting randomly toward the people there, as a result of this shooting my son, (b)(6) was injured and he passed away. The place of incident in Al-Shani coffee in Buhriz. I'm asking for the claim and indemnification against the American forces. This is my deposition.

Victim's Father  
(b)(6)

Judicial Investigator  
(b)(6)

**Buhriz Police Station**  
**/1/2005**

Deposition of the claimed of the personal right, wife of the victim, (b)(6)  
(b)(6), her name is (b)(6)  
born on (b)(6) lives in Buhriz /Hai Al-Sallam (Hai Saddam  
previously), name of his mekhtar is ( (b)(6) ). She says:

In 16/1/2005 my husband, the victim, (b)(6) went out from the  
house about 3:15 pm toward Al-Shani coffee. After that I heard that the  
American forces entered to Buhriz and the started shooting which I heard  
it. Then somebody came to our house and told me that the American forces  
injured my husband and he was moved to the hospital. After that, I sent my  
sons to the hospital in order to know what happened to their father, but  
when they arrived there they found their father died as a result of the  
shooting. After they went back to the home, they told me the truth. At this  
time, I ask for the claim and compensation against the American forces.  
This is my deposition.

Victim's Wife  
(b)(6)

Lieutenant  
(b)(6)  
Investigation Officer

**Baquba Investigation Court**  
**25/1/2005**

Deposition of the claimed of the personal right, wife of the victim, ( (b)(6)  
(b)(6) ), her name is (b)(6)  
born on (b)(6) lives in Buhriz /Hai Al-Sallam (Hai Saddam  
previously ), name of his mekhtar is (b)(6) She says:

The victim, (b)(6) is my husband and I have sons from him they  
are ( (b)(6) In 16/1/2005 time  
was afternoon, my husband went out to Al-Shani coffee in Bujriz and after  
one hour I heard by people that the American forces entered Buhriz and  
they were shooting randomly near Al-Shani coffee which my husband  
(victim) was site there as a result of this shooting my husband injured then  
he passed away. I ask for the claim and compensation against the  
American forces. I haven't witnesses at this time because all who were  
there had arrested by the American forces. This is my deposition.

Victim's Wife

(b)(6)

Judicial Investigator

(b)(6)

25/1/2005

**Diyala Health Department  
Forensic Medicine**

**Nu./ 175**

**Date/ 19/1/2005**

**Forensic Medicine Anatomic Report**

**To/ Buhriz Police Station**

I'm Dr. (b)(6) I did the forensic medicine anatomic for the body dead of the victim ( (b)(6) ), the result as following :-

- 1- We noticed that the body of the victim ( (b)(6) ) passed away because of an interior bowels laceration and its bleeding as a result of penetration (5) bullets.
- 2- The distance of shooting more than (90) cm from the goal.
- 3- Time and date of dead was 12-24 hours with observing the weather conditions at these times.
- 4- Direction of shooting is back- front / right- left.
- 5- There is no trail for violence in rest of the body.

Dr. (b)(6)  
Emasculative of Forensic Medicine

**Buhriz Police Station**  
**17/1/2005**

(b)(6) **Investigation Judge**

- At this morning, (b)(6) came to our station and wanted to inform us about the incident of murdering of his brother , (b)(6) , who killed by the American forces when they entered to Buhriz. His sayings attached with the investigation copies. We need your checkup.
- The performance had completed for the body dead of the victim ( (b)(6) (b)(6) , and the body dead was sent to the judicial medicine and full the report of body dead anatomic of the victim, the copies were attached with the investigation copies. We need your checkup and issue the right decision. With regards.

First Lieutenant

(b)(6)

Investigation Officer

**The officer**

- 1-The claimed of the personal right were come.
- 2-Checking and drawing for place of the incident.
- 3-Checking for the body dead.
- 4-Attachment of the anatomical report.
- 5-Checkup of general litigation.

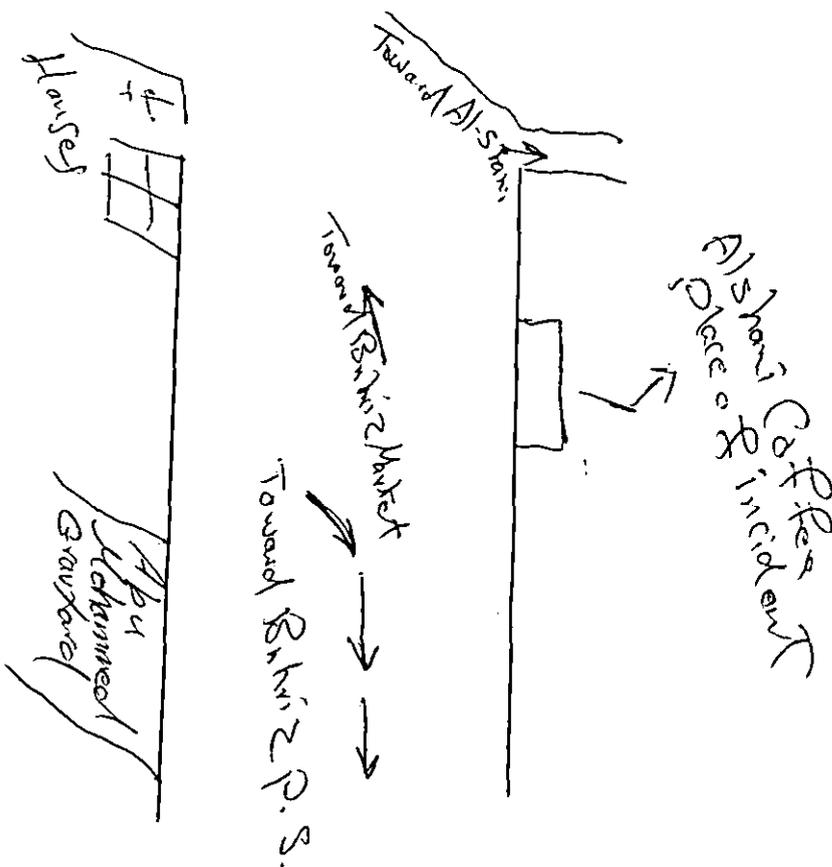
CENTCOM 000577

5-IA3-1355-00014

Buhriz Police Station  
25/1/2005

Checking and the drawing for place of the incident

- 1-Place of the incident is far from the station about (700)m.
- 2-Place of the incident is a coffee in Buhriz / Al-Shani called (Al-Shani coffee).
- 3-Location of the mentioned coffee is adjacency Buhriz Dispensary which its location is in front of Abu Mohammed Graveyard in Buhriz.



Lieutenant

(b)(6)

Investigation Officer

**Buhriz Police Station**  
**26/1/2005**

(b)(6) **Investigation Judge**

Your decision in 25/1/2005

- We had attached result of dissection of the body dead, (b)(6) (b)(6), we need your checkup.
- We had attached the checking and the drawing of the incident, we need your checkup.
- We present you sir the investigation copies which concern with the victim, (b)(6), and the accused (the American forces). We need your checkup and your order about transfers the copies to the Constitutional Lawyer Office in the governorate.

First Lie.

(b)(6)

**The officer**

- 1-I checked and become clear that the American forces were the cause of this incident, for that the investigation copies must be moved to the compensations committee in Diyala governorate
- 2-Decision record
- 3-Checkup of genral litigation.

**Buhriz Police Station**  
**25/1/2005**

(b)(6) **Investigation Judge**

Your decision in 17/1/2005

- We send you the claimed of personal right, father of the victim , mother , the wife that their depositions had attached, we would like to authenticate it and issue the right decision , with regards.

Lieutenant

(b)(6)

Investigation Officer

1-Depositions of the claimed of personal right, mother of the victim

( (b)(6) ) his father (b)(6) ) , and his wife (b)(6) ) were written by the judicial investigator and attached with the copies.

2-Performance the checking and drawing for place of the incident.

3- The sayings of witnesses have been written for documentation it judicially.

4-Attaching the anatomical medicine report and the checking of the body dead.

5- Checkup of the general litigation.

Judge

25/1/2005

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5-IA3-1355-00017

**Checking on the body dead of the victim (**

(b)(6)

(b)(6)

According to the reporting which was told by (b)(6) about the incident of murdering of his brother (the victim) (b)(6) by the American forces because of that he was moved to Bquaba general hospital / judicial medicine department, and I saw the following:

1-I saw the body dead in judicial medicine department its belong to the victim above, and its age about (b)(6)

2-The body dead wears garment its color (b)(6)

3-I saw a bullet, which entered from the up area of leg and penetrate it to the back.

4-I saw some bloody spots on the back.

5-I didn't saw anything else that I have to mention it except what I said or write here. For that, this file opened and had signed by me.

First Lieutenant

(b)(6)

Investigation Officer