

6-128-79



CENTCOM 002731

Is this thing
Dead Yet?

COMPANION claim
6-IR8-078

101st Airborne Division (Air Assault)
Foreign Claims Cover Sheet

File #: 6-IR8-079

Name: _____ (b)(6)

POA/ATT: N/A

Date Received: 8 Jan. 06 Date of Incident: 14 Dec. 05

Claim Amount: \$4,000 Location: EL-Shurgat

Next Apt: 22 JAN 06

Translation: _____

Further Investigation:
- Chassis # Needed

Contact S-2 Check Sigacts _____ (b)(2)High
(See claim #6-IR8-078 coversheet for SIGACTS narrative notes.)

Approved Denied C/E _____ (b)(3)(b)(6)

11/9/06
 Goodwill Payment recommended:
 Approved: _____ Denied: _____

MVA RAID LOST NEG FIRE REAL
 OTHER: _____

Page 2

Appeal 27 Feb
nb

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

C/E

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

2/12/06





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

09 January 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) **06-IR8-079**

1. **Identifying Data:** (b)(6)
2. **Date and place the incident occurred giving rise to the claim:** The claim occurred on 14 December 2005 in Ash Sharqat, Iraq.
3. **Amount of claim and date it was filed:** Claimant filed a claim for \$4,000 on 8 Jan 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 properly filed in a timely manner.
5. **Facts:** The Claimant is IP. Claimant alleges that CF were at an election site, and they shot at the car he was driving, causing engine damage, bullet holes and windshield damage. He alleges that his car was 7,500 meters from the election site, and he did not see CF hand/light signals. A SIGACTS investigation for the relevant time period shows that at 0900 hours on 15 December, 2/A/3-101 conducted an Escalation of Force south of Ash Sharqat. The platoon was moving barriers at an election site when a LN vehicle tried several times to bypass the barriers. Local IPS tried to catch the vehicle but could not. The vehicle then reappeared trying to bypass the barriers again. Soldiers used (b)(2)High flashlights, hand and arm signals to stop the vehicle. It continued on, so one soldier fired one round into the hood. But the vehicle continued trying to bypass. Then soldiers fired into the windshield of the vehicle, stopping it. There was 1xLN KIA and 1xLN WIA. IPs immediately treated casualties and evacuated them to hospital. IPs asked CF to leave the area, trying to avoid reprisal over the incident.
6. **Opinion:** 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." Due to the suspicious behavior of the Claimant driver in a dangerous area, there was an escalation of force. Force protection is combat activity because it includes immediate preparation for impending armed conflict. The driver further assumed risk by failing to obey the many warnings he was given to stop. Accordingly, this claim is non compensable because it is incident to a combat activity.

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7. **Recommendation:** The claim is denied.

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

CPT, JA
Claims Judge Advocate

Claims Form

To: United States Army Foreign Claims Commission.

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

POA/ATI: _____ *N/A* _____

Power of Attorney provided and interpreter approved: *N/A* _____

Decedents: _____ *N/A* _____

Hometown: _____ Iraqi Resident: _____

My claim arose at: _____ *Al Sharqat* _____
(Town) (City) (Country)

My claim arose on: _____ *14 Dec 05* _____
Month Day Year

Proof of Ownership: _____ *Purchase K - names match* _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): _____ *N/A* _____

Interpreter Approved: _____

Legal Expert Opinion: _____ *\$4,000* _____

Interpreter Approved: _____

Witness Statement (Consistent?): _____ *X1 - see comp. claim - same chgs.* _____

Interpreter Approved: _____

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 is IP. driving at 20-25 km/hr.

• C did not see any hand/arm signals

• ~ 500 m away from election center.

• engine damage / windshield / bullet holes.

• Toyota Supra hard top - _____ (b)(6) _____

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.)

Item	Amount
CAR DAMAGE	\$4,000

Total: \$4,000

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

N/A

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

(Name) _____ (Address) _____

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

\$ 4,000 local _____

(b)(6) _____
(b)(6)

Subscribed before me this 8 day of JAN, 2006.

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

Foreign Language

request
to get
paid
shut by C.f

Foreign Language

Foreign Language

(b)(6)

New
evidence
on appeal

(b)(5)

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2-11

Plaintiff's
Request

Lt.

Foreign Language Text

(b)(6), Foreign Language Text

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Foreign Language, (b)(6)

Foreign Language Text

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Page 15 redacted for the following reason:

Foreign Language, (b)(6)

UNITED ARAB EMIRATES
DUBAI
P.O. BOX 149



SERIA

Foreign Language

DATE

Foreign Language

Dubai Police General i
GENERAL DEPT. OF TRAFI

CERTIFICATE OF

EXPORT / TRANSFER / TOURISM / NO. PLATE

DUBAI POLICE CERTIFIES THAT THE VEHICLE BELOW IS
PROPERTY OF

NATIONALITY
PASSPORT No.

THERE IS NO POLICE OBJECTION FOR THE VEHICLE

AS THE VEHICLE CONFORMS TO ALL LAWFUL CONDITIONS REQUIRED.

VEHICLE DETAILS

MAKE
SUBMAKE

Foreign Language

CATEGORY

Foreign Language

COLOUR

MODEL
COUNTRY OF ORIGIN
ENGINE No

CHASSIS No.

No DOORS

No. SEATS

REG PLATE No
REG DATE
REG EXP. DATE

HIRE PURCH. CO.
HIRE PURCH REF.
HIRE PURCH. DATE

INSURANCE CO.
POLICY No

(b)(6)

REMARKS.

Any correction will render this certificate null & void

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Foreign Language Text, (b)(6)

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Foreign Language Text

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