

10-1R8-272

Pages 2 through 18 redacted for the following reasons:

Foreign Language
, (b)(6)
Foreign Language, (b)(6)

TF 5-7 EOF

(b)(2)High

15 km NW

Balad

(b)(2)High

IZ vehicle approached
from rear of patrol
@ high rate of speed

Flashed spotlight cause
other vehicles to slow
down. Flashed again

1 warning shot @ grill
1 warning shot into hood,
kills driver in neck.

Pages 20 through 21 redacted for the following reasons:

Foreign Language, (b)(6)

claimants statement
at the police station



Foreign Language Text

Foreign Language Text, (b)(6)

Police Report
to the Judge

Foreign Language Text

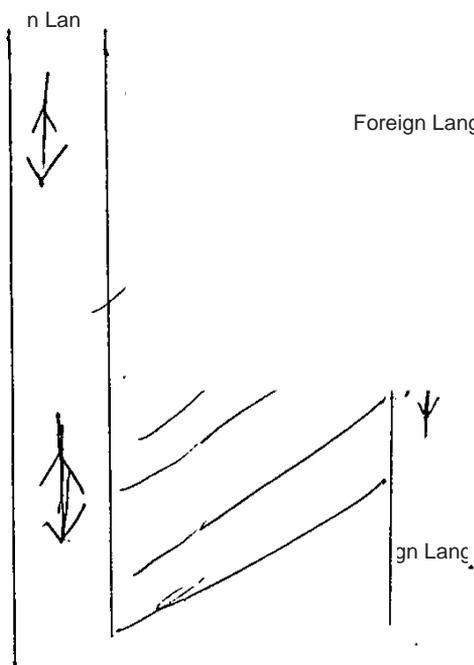
Foreign Language Text, (b)(6)

Foreign Language

Diagram

Foreign Language

(b)(6), Foreign Language Text



↓
Foreign Language



Foreign Language Text

w/2 at the police
station.

Foreign Language Text

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

w/1 at the court

Foreign Language Text

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

w/1 statement at the court

Foreign Language Text

Foreign Language Text, (b)(6)

Original
seen

Foreign Language Text, (b)(6)

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

15 February 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) 06-IR8-272

- 1. Identifying Data:** (b)(6)
- 2. Date and place the incident occurred giving rise to the claim:** The claim occurred on 3 September 2005 in Ishaki, Iraq.
- 3. Amount of claim and date it was filed:** Claimant filed a claim for \$2,500 on 14 Feb. 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 alleges that her husband, (b)(6), was killed by a CF convoy. The convoy allegedly shot and killed the deceased while he was driving in the traffic circle in Al Ishaki. A SIGACTS investigation revealed that TF 5-7 conducted an escalation of force in the vicinity of the alleged incident. The LZ vehicle approached from the rear of the convoy at a high rate of speed. The convoy flashed a spotlight on the vehicle, which caused other vehicles in the area to slow down. One warning shot was fired with no effect. A second warning shot was fired which traveled through the hood and struck the deceased in the neck. Claimant's death certificate confirms he was shot in the neck.
- 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." Here, the deceased was killed during an escalation of force when the vehicle did not comply with the instructions from the CLP. The escalation of force constitutes a combat activity because the soldiers were responding to a perceived threat.
- 7. Recommendation:** The claim is denied

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

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

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

CR1, JA
Claims Judge Advocate

CENTCOM 002823

TF Band of Brothers Claims Intake Form

To: United States

From: Name: _____

POA/ATI

(b)(6)

Power of

Decedents

Hometown: _____

Iraqi Resident:

My claim arose at: _____

(b)(6)

(Balad)

(To)

(City)

(Country)

My claim arose on: _____

Month

Day

Year

Sept. 3, 2005

Proof of Ownership: _____

N/A

VIN Match: _____

Interpreter Approved: _____

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations):

Original seen - dated - September 3
COO - bullets in neck; Balad

Interpreter Approved: _____

Medical Report/Legal Expert Opinion: _____

Interpreter Approved: _____

Witness Statement (Consistent?):

① Nephew - saw - saw CF shoot deceased in traffic circle

Interpreter Approved: _____

② CF shot my brother b/c he was driving behind them.

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.)

Wife is claiming for the death of her husband.

Near traffic circle. I was turn & suddenly CF

convoy came in wrong direction & shot deceased

Occurred on the traffic circle 9:00 p.m.

Near _____

(b)(6)

(b)(6) Kids

Humv's

100m from convoy when

Evidence: original death cert, witness X 2, POA, police & judicial docs

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>wrongful death</u>	<u>\$2,500</u>

Total: ~~\$~~2,500

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:

(Name) _____ (Address) _____

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

\$ _____ local _____

(b)(6)

t)

Subscribed before me this 14 day of Feb, 2006.

CPT

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

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

6-128-212
28 Feb 06



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
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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
Chief of Claims

CENTCOM 002826



CENTCOM 002827

Police report

In the evening of **3/12/2005** came to our **I.P** station
(b)(6) to give an information
about killing accident for his relative ((b)(6)
(b)(6) by u.s army at Al Asshaqi area
ther for we took his statement :-

- Then we made research and examination for accident,s location .
- We did what required to the truck model 2005 mitsupushi number.

Witness Statement

In the data 3/12/2005 at 8:00 pm , After we recieved the new small trucks, belong to (b)(6)

(b)(6) from Mosel city . when we were driving the truck at Al-Asshaqi area , exactly before the I.P station there . At that time we surprised that u.s. army convoy moving in wrong side , shooting five , which caused of killing one of our friend ((b)(6)

(b)(6)) After that , the soldiers stopped to see the truck. They found the driver was Killed by shoot a bullet at his neck. They tried to help him, but it was too late . Then They left and told the I.P guys to take the body .

(b)(6)

Driver

(b)(6)

Member of

(b)(6)

(b)(6)

>

Member of

(b)(6)

To: compensation comette of us.army
In salah al deen province

In the date 2/12/2005 at 8:00 p.m which my brother ((b)(6)
(b)(6) was driving on his way at Al-Asshaqi
area, exactly before I.P station of Al-Asshaqi ,The truck
belongs to (b)(6) model (b)(6) without
number , where ne was in duty with other persons to bring
new small trucks from Mosel city . In the same time there is
U.S arm conroy moving in the same street , before my
brother ,but they suddenly turned and after a while they
began shooting at my brother truck and Killed him . Then
they came to my brother's truck to check and offer some help,
but it was too late .He was dead . the soldier left without give
any excuse or an address for their unit . They just told the I.P
station their to take the body . So I ask for a compensation to
this accident because he didn't have made any mistake to U.S
army convoy .

(b)(6)

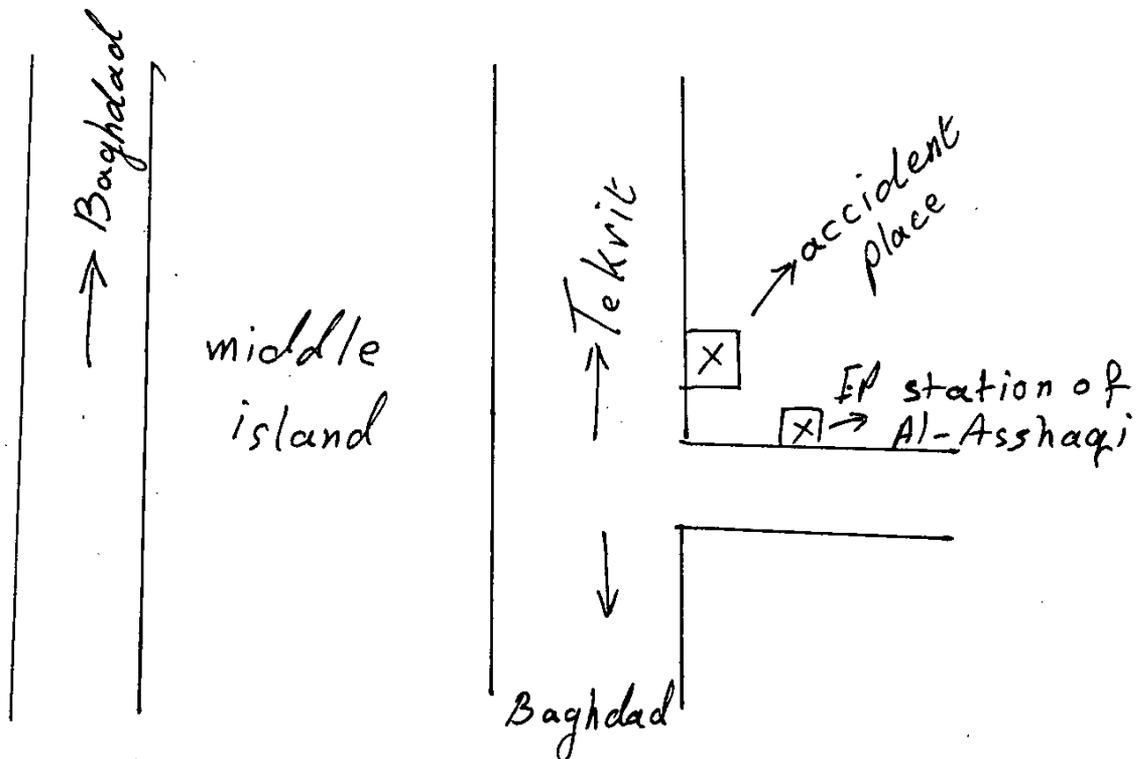
The dead brother

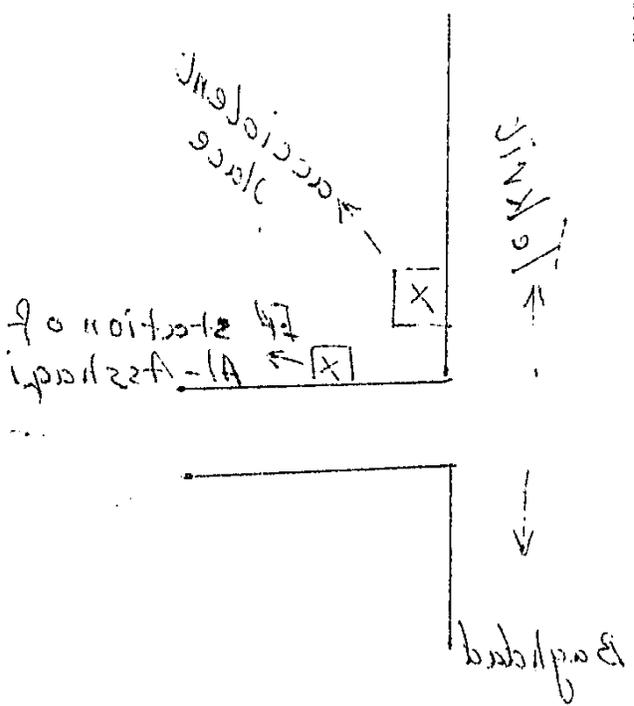
Research for the body

- 1- The body belongs to a man about (b)(6) years .
- 2- He was wearing white internal pygamas and an Arab dress (Dishdasha) its colour is grey .
- 3- I noticed that a bullet shot the neck at the front and made a hole in the neck .

First lieutenant

(b)(6)





is/cmg
mial/16

— Bord/rdy



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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 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 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 60 day period, this failure will result in denial of the claim. The claim will be administratively closed in accordance with the guidance.

1. انا المشتكي هنا اوافق على اني اذا فشلت في اثبات طلبي بالادلة الكافية الى دائرة الشكاوي (السيماك) خلال مدة (60) 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,ايم 27-162, 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 . والقضية سوف تغلق اداريا وفقا للقانون.

Claimant Signa _____

(b)(6)

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