

08-I93-T032

CENTCOM 003127



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
MULTI-NATIONAL DIVISION—BAGHDAD
FOB PROSPERITY, BAGHDAD, IRAQ
APO AE 09348

AFVA-2BCT-BJA

Claim of

(b)(6)

08-I93-T032

ACTION

1. Facts: The claimant alleges that on 27 May 2007, U.S. Forces raided his home and shot his brother in the chest. The claimant requests compensation in the amount of \$15,000.00.
2. Opinion: The FCA permits compensation for damages caused by negligent or wrongful acts of U.S. Forces. In this case, there is insufficient evidence of negligent or wrongful acts by U.S. Forces. Instead, it appears the claim was a result of combat operations.
3. Authority: The Foreign Claims Act (10 U.S.C. § 2734) as implemented by AR 27-20, Chapter 10.
4. Action: The claim is therefore denied.

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

CPT, JA
FCC I93

CENTCOM 003128



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2ND BRIGADE COMBAT TEAM
MULTI-NATIONAL DIVISION-BAGHDAD
FOREIGN CLAIMS COMMISSION
FOB PROSPERITY, BAGHDAD, IRAQ
APO AE 09348

November 24, 2007

2nd Brigade Combat Team Legal Office

(b)(6)

Claim #08-I93-T032
Baghdad, Iraq

Dear Sir:

You have submitted a claim seeking compensation for the death of your brother that occurred on 27 May 2007. I have thoroughly reviewed your claim pursuant to the Foreign Claims Act (FCA), Title 10, United States Code § 2734, Army Regulation 27-20 (Claims) and Department of the Army Pamphlet 27-162 (Claims Procedures).

I have reviewed all the information included in your claim, and the evidence from the resulting investigation. Unfortunately, your claim is not compensable. After reviewing your claim, I have determined that there is no evidence that U.S. Forces acted either negligently or wrongfully. Instead, it appears your claim was a result of combat operations. Accordingly, your claim must be denied.

If you are dissatisfied by this action, you may request reconsideration of my decision in accordance with Army Regulation 27-20. Any such request must be based on new or additional evidence and should be forwarded to this office. While there is no prescribed format for such a request, it must describe the legal and/or factual basis for relief. Any request for reconsideration should be made in writing within thirty (30) days of your receipt of this letter. Thank you for your kind attention.

Sincerely,

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

Captain, U.S. Army
Foreign Claims Commission I93

CENTCOM 003129

CHECKLIST

CLAIM NUMBER: 08-I93-T032 AMOUNT OF CLAIM: \$15,000.00
 CLAIMANT'S NAME: (b)(6)
 DATE OF INCIDENT: 27 May 2007 DATE FILED: October 2007
 DATE RECEIVED: 24 October 2007

CLAIM TYPE:
 Vehicle Damage Detainee Property Damage During Raids
 SAF Damage/Injury Real Estate Other
 CLAIM AROSE FROM:
 Combat Activities Non-combat Activities
 CLAIM IS:
 Payable Not Payable

BRIEF OVERVIEW: The claimant alleges that his home was raided on 27 May 2007. He states that his (b)(6) brother was shot in the chest and leg for no apparent reason.

REMARKS: I called and spoke with 1LT (b)(6), (b)(3), the individual who wrote a letter for the claimant. He stated to me that the (b)(6) old LN who was shot was not asleep, but was awake and yelling at one of the Soldiers who was guarding the LNs in a room in the house that was being used as a Mortar overwatch observation point. The LN kept yelling at the guard and acting like he was going to try to attack the guard. Finally, he lunged at the guard and tried to take the guard's weapon. 1LT (b)(6), (b)(3) states that at this point, the guard considered this a hostile act and shot the LN. 1LT (b)(6), (b)(3) forwarded me to his servicing legal office, who verified this story. I requested a copy of an investigation or any other record of this incident, but SGT (b)(6), (b)(3) 2-325 ABN Legal, stated that they did not have any type of record for this incident. He stated that this individual had attempted to file a claim for this incident with his unit, but was prevented from filing based on the circumstances of the incident. I recommend this claim be denied based on the circumstances and lack of evidence of negligence or wrongdoing by U.S. or Coalition Forces.

RECOMMEND: APPR (b)(3)(b)(6)
 REVIEWED BY: CPL (b)(6), (b)(3) DATE REVIEWED: 15 November 2007

FCC COMMENTS

DATE APPROVED/DENIED: 23 NOV 07 SCL

DENIED *NOV 15 2007* APPROVED
 Denial Letter *DEC 11*
 Denial Action Memo *24 NOV 07*
 Amount Approved: _____
 Approval Action Memo
 Settlement Agreement
 Settlement Letter CENTCOM 003130

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

- ILT (b)(6), (b)(3) was on leave until 16 Nov 07.
- ILT (b)(3), (b)(6) 242 6839
- 2-325 Legal 774 8021
- BTL CPT 242 0821

Spoke w/ SGT (b)(6), (b)(3)
2-325 Legal, he stated that
the unit had no record
(15-6 sigat, previous claim) from
this incident

CENTCOM 003132

15-6 was not conducted -
was claim already submitted?
Conducting Mortar Duties

we were in position,

had guards on ground
- old man became violent etc.
- got shot Once in chest

(b)(2)High

BTC CPT

(b)(2)High

~~REF~~ Legal

Legal —

(b)(2)High

1503 100 75

C Co

CPT

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

(b)(2)High

~~2-325 BTL CPT~~

282 BTL CPT

(b)(2)High

7-82

Maj
CPT

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

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

(b)(2)High

2-325

BTL

(b)(2)High



2 BCT

2-82

CPT

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

C Co Cndr

2-82 Maj
CPT

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

called 1800 27 Oct

ILT (b)(6), (b)(3) is out.

called " 1345 28 Oct

No Answer

1LT

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

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

2nd PLT C Co 2-325
North of Azara Hospital
Near the shrine

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

CENTCOM 003136

CENTCOM 003137

Claim Form

طلب تظلم

To: United States Army Foreign Claims' Commission

الى : مفوضية التظلم لجيش الولايات المتحدة الامريكية

From: Name_

من: الاسم

(b)(6)

Address: Baahdael / Al-Shaab / AL-Mehdy district /

العنوان:

(b)(2)High

Telephone_

(b)(6)

I am Iraqi

a. National citizen of

Iraq

انا
احمل الجنسية

b. Permanent address

Iraq / Baghdad / Al-Shaab

ب-عنواني الدائم

c. Employed by

retired

ت-اعمل لدى

d. Check one () an insurer not an insurer

ش-ضع علامة على احدهم () احمل التامين () لا احمل التامين

e. Check one () a subrogate not subrogate

ج-ضع علامة على احدهم () دانن او () ليس دانن

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

U.S Forces

أننى أتظلم لدي حكومى الولايات المتحدة للأضرار والإصابات التى نجمت من:

الاسم

المنظمة

الوحدة العسكرية

العنوان

رقم التليفون

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.)

الممتلكات المتضررة مملوكة من: (إذا كان عذا التظلم قدم من قبل ممثل أو قريب أو عائل فالرجاء أخطار المستمسكات التى تخولكم وتوكلكم للتقدم بهذا التظلم ، أو أي دليل من ممثلين رسميين. إملأ التظلم بالأسفل للأفراد المتقدمين بالشكوي للإصابات أو الأضرار التى أصابتهم.)

My claim arose at: Al-Sharab Baghdad Irag
(Town) (in his house) (City) (Country)

(b)(6)

My claim arose on: May 27 2007
Month Day Year

Foreign Language Text

السنة

يوم

شهر

تظلمى قدم فى:

According to Mr. (b)(6) from his mother's side, at 7 o'clock in the morning in May/27/2007 it was an American patrol checking the district. They got in the house and his mother who is (b)(6) was sleeping and Mr. (b)(6) was sleeping too and for knowing he was suffering form a mantel problems which is (schizophrenia) according to military service . While they got in the house one of the soldiers got in (b)(6) room where he was sleeping and shot at him one bullet in his chest and another bullet in his left leg. And after that the American officer yelled at the soldier because of what happened . The body was moved to Al-Sha'ab Police Station, and they gave us a claom paper written by them and they told the officer in the police station to tell his family to go to NIAC with this paper.

After the accident the American soldier wanted to give amount of money because of what happened but he couldn't because nobody was in the house just his mother and she is (b)(6) so they didn't give the money according to the neighbors statement.

GENTCOM 003140

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.)

بإختصار أشرح ما حدث والأضرار التي أصابتك جراء ذلك ، سواء كانت جسدية أو ممتلكات . (الرجاء استعمال خلفية هذه الورقة إن لم تكن الأسطر لتكفي)

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

his brother's death (b)(6) who had a schizophrenia.

أشرح متى وطبيعة ما حدث من أضرار سواء كانت جسدية أو لممتلكاتك والتي أصابتك جراء ما حدث بسبب الحادث المقصود .

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>his brother's death</u>	

Total: \$ 15,000

أشرح بالتفصيل متي تضرر والكلفة للممتلكات أو للإصابات الجسدية وتكلفتها (الرجاء إضافة الثبوتات والممتلكات والفواتير الضرورية لكل شيء لوحدة)

تكلفته

الشيء المتضرر

إجمالي التكلفة:

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

لدي تأمين على الممتلكات أو الضرر الجسدي المتضرر بما يوازي:

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

(Name) (Address)

إذا كان لديك أي تأمين الرجاء ذكر أسم وعنوان شركة التأمين:

(العنوان) (الأسم)

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

\$ 15,000 Local 18,600,000 ID

أطالب بتعويض للأضرار يوازي (أكتب بالدولار الأمريكي أو العملة المحلية)

العملة المحلية \$

I (have/ have not) previously filed a claim relating to the incident described above.

سابقاً (قمت) (لم أقم) بتقديم بلاغ لهذه الحادثة المذكورة بالأعلى

To the best of my knowledge, another claim (has/ has not) been filed relating to the incident described above.

لحسن علمي طلب تظلم (قدم) (لم يقدم) لهذه الحادثة المذكورة بالأعلى

NOTE: BY SIGNING BELOW, YOU ARE SWEARING THAT THE INFORMATION PROVIDED IN THIS CLAIM IS ACCURATE AND TRUTHFUL. ANYONE WHO ATTEMPTS TO FILE, OR CONSPIRES TO FILE, A DUPLICATE OR FRAUDULENT CLAIM AGAINST THE UNITED STATES GOVERNMENT WILL FACE CRIMINAL PROSECUTION.

ملاحظة: بالتوقيع أسفل هذا التظلم فإن تقسم على أن كل المعلومات المقدمة في هذا التظلم هي صحيحة وحقيقية. أي شخص يحاول تقديم تظلم كاذب أو مختلق أو يزور التظلم ضد حكومة الولايات المتحدة الأمريكية سوف يواجه عقوبات جنائية حادة من حاكم من قبل السلطات

(b)(6)

(Signature of Claimant)

(توقيع التظلم) الرجاء كتابة الاسم والتوقيع

Subscribed to me this _____ day of _____, 200_____.

(Signature of Witness)

(Printed Name)

عُيِّنَ في يوم _____ الموافق _____ من عام _____

(توقيع الشاهد)

(إسم الشاهد بالكامل)

Al-Sha'ab Investigation Court

Jun/7/2007

According to the victim's mother statement (b)(6)
(b)(6) at 7 o'clock in the morning in May/27/2007 it was an American patrol checking the district. They got in the house and the mother who is (b)(6) was sleeping and (b)(6) was sleeping too and for knowing he was suffering form a mantel problems which is (schizophrenia) according to military service . While they got in the house one of the soldiers got in (b)(6) room where he was sleeping and shot at him one bullet in his chest and another bullet in his left leg. And after that the American officer yelled at the soldier because of what happened . The body was moved to Al-Sha'ab Police Station, and they gave us a claom paper written by them and they told the officer in the police station to tell his family to go to NIAC with this paper.
After the accident the American soldier wanted to give amount of money because of what happened but he couldn't because nobody was in the house just his mother and she is (b)(6) so they didn't give the money according to the neighbors statement. GENTCOM 003144
And for what happened I am claiming to have my rights.

foreign language, (b)(6)

CENTCOM 003145

CENTCOM 003146

FOREIGN LANGUAGE

Al-Sha'ab Police Station

Jun/7/2007

To (b)(6)

In May/28/2007 the claimant's statement ((b)(6) had been recorded and we bring before your honor the claimant kindly requesting to certify her statement with appreciation.

(b)(6), Foreign Language Text

CENTCOM 003147

CENTCOM 003148

foreign language

witness statement

foreign language

Al-Sha'ab Police Station
May/27/2007

Body Examination

After doing the examination for the body I noticed the following:

1. I noticed the body in age (b)(6)
2. I noticed the body got shot in the chest by a bullet.
3. the body was wearing a (dashdashah).
4. I didn't notice any other thing to be useful for the investigation.

CENTCOM 003150

CENTCOM 003151

foreign language

foreign language

CENTCOM 003153

Pages 28 through 33 redacted for the following reasons:

FOREIGN LANGUAGE, (b)(6)

CENTCOM 003160

Pages 35 through 44 redacted for the following reasons:

FOREIGN LANGUAGE
FOREIGN LANGUAGE, (b)(6)