

(b)(6)

08I92T052

871

Claim Number: 08-IJ6-T052

(b)(2)High

check

Name

(b)(6)

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

Date of Incident: 8-Jul-07

Date Received: 10-Apr-08

Summary:

2 sons killed by bombing. No sigacts, no 15-6. Combat Exclusion.

Circle Decision, Fill-in Date, and initial

<input checked="" type="radio"/> DENY	<input type="radio"/> INVESTIGATE	<input type="radio"/> PAY - \$ _____
DATE <i>4 Mar 08</i>	DATE	DATE
INIT <i>(b)(3), (b)(6)</i>	INIT	INIT

- Insufficient Evidence
- Combat Exception
- US Involvement
- Lack of Causation
- Statute of Limitations
- Not a Proper Claimant
- Non-Cognizable Claim

NOTES:

CERP

CLAIMS CHECKLIST

CLAIM NUMBER:

AMOUNT OF CLAIM: \$

CLAIMANT'S NAME: (b)(6)

DATE OF INCIDENT: 8 July 2007 DATE FILED: 21 Nov 2007 DATE RECEIVED:

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: Claimant states that her sons were killed during Close Air Support Operations.

REMARKS:

Recommend Approval Denial
CERP and Check Sig Acts / No claim amount

REVIEWED BY: SPC (b)(3), b(6)

DATE REVIEWED:

FCC COMMENTS

Get w/ MND-C and the Legal office for 4/31/08 if this is a legitimate claim there will be a 19-6 or at least a SIGACT on file - get w/ our AFO and research whether there were any air strikes on 8 July 07. Get full translations of the documents,

DATE APPROVED/DENIED:

13 JAN 08

DENIED

Denial Memo

APPROVED

Amount Approved: \$10,000
Approval Memo
Settlement Agreement
SF 1034
Disbursing Officer Memo

I don't know who wrote this. I am recommending DENIAL of this claim. MAS

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



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST BRIGADE COMBAT TEAM
4TH INFANTRY DIVISION
FOB FALCON, IRAQ 09361

SUBJECT: Claim # 08-I2A-T052

(b)(6)

Baghdad, Iraq

Dear Sir:

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

Allow me to express my sympathy for the loss of your loved one from events occurring on July 8, 2007. However, in accordance with the cited references and our investigation of the operational records concerning your claim, your claim is not compensable. After a search of records of the date in question, the evidence provided showed that damages were the result of combat operations. Damages directly or indirectly related to combat operations are not compensable. Further, there is insufficient evidence that the damage was caused by U.S. forces. Accordingly, your claim is denied.

If you are dissatisfied by this action, you may request reconsideration of the decision in accordance with AR 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 30 days of your receipt of this letter. Thank you for your kind attention.

Sincerely,

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

MAJ, JA USAR:
Foreign Claims Commission I2A



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
1ST BRIGADE COMBAT TEAM
4TH INFANTRY DIVISION (MECHANIZED)
BRIGADE OPERATIONAL LAW TEAM
FOB FALCON, IRAQ APO AE 09361

AFYB-IN-JA

8 June 2008

MEMORANDUM OF OPINION

SUBJECT: Action on Claim of (b)(6) Claim # 08-IJ6-T052

1. **Claimant's Name and Address** (b)(6) Baghdad (b)(2)High
(b)(2)High
2. **Date and Place the Incident Occurred Giving Rise to the Claim:** (b)(2)High
Area, Baghdad, 15 July 2007.
3. **Amount of Claim and the Date it was Filed:** Claimant seeks compensation in the amount of \$40,000 for the deaths of her (b)(2)High. The claimant completed the Claims Form on 25 October 2007. The 1-4 BCT BOLI received the claim on 10 April 2008.
4. **Chapter(s) under Which the Claim Was Considered, and a Brief Description of the Incident or of the Issues Raised by the Claimant Upon Reconsideration:** Foreign Claims Act and Chapter 10, AR 27-10: Claim filed seeking compensation for death.
5. **Facts:** Claimant states that during fighting between CF and the Mahdi Army on 25 October 2007, her (b)(6) sons were killed in an airstrike by the U.S. Air Force. No 15-6 was conducted into this incident and no SIGACTs were recorded. TIGRnet is silent about this purported incident.
6. **Analysis:**
 - a. In order to have a cognizable basis for a claim under the Foreign Claims Act, the claimant must demonstrate that the incident occurred outside of the United States and that the damage was caused by noncombatant activities of the U.S. Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the U.S. Armed Forces. Additionally, a settlement authority may pay a claim even if the injury results from a criminal act clearly outside the scope of employment or duties of the military member or civilian employee. See AR 27-20, para. 10-3a.
 - b. Based upon the claimant's version of the events, her sons were killed in an airstrike by U.S. Forces during a combat action. Moreover, there is insufficient evidence that CF were involved at all in the death of the claimant's sons. Accordingly, as unfortunate as the death of her sons may be, the claimant's claim is not compensable under the Foreign Claims Act.

CENTCOM 011151

08-IJ6-T052-00005

AFYB-IN-JA

SUBJECT: Action on Claim of

(b)(6)

Claim # 08-IJ6-T052

6. Action: This claim is denied

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

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

MAJ, JA USAR
IJ9

MAJ, JA
IJ9

CPT, JA
IJ9



DEPARTMENT OF THE ARMY
1ST BRIGADE COMBAT TEAM
4TH INFANTRY DIVISION (MECHANIZED)
BRIGADE OPERATIONAL LAW TEAM
FOB FALCON, IRAQ APO AE 09361

REPLY TO
ATTENTION OF:

AFYB-IN-JA

4 May 2008

MEMORANDUM FOR Three-Member FCC IJ4, Office of the Staff Judge Advocate, Multi-National Division-Baghdad, Camp Liberty, Iraq APO AE 09344

SUBJECT: Forwarding Memorandum and Recommendation for Action on Claim of (b)(6)
(b)(6) Claim # 08-IJ6-T052

1. **Claimant's Name and Address:** (b)(6) Baghdad, (b)(6)
(b)(2)High
2. **Date and Place the Incident Occurred Giving Rise to the Claim:** Awareej, Al-Rashid Area, Baghdad, 15 July 2007.
3. **Amount of Claim and the Date it was Filed:** Claimant seeks compensation in the amount of \$40,000 for the deaths of her (b)(6) sons. The claimant completed the Claims Form on 25 October 2007. The 1-4 BCT BOLT received the claim on 10 April 2008.
4. **Chapter(s) under Which the Claim Was Considered, and a Brief Description of the Incident or of the Issues Raised by the Claimant Upon Reconsideration:** Foreign Claims Act and Chapter 10, AR 27-10: Claim filed seeking compensation for death.
5. **Facts:** Claimant states that during fighting between CF and the Mahdi Army on 25 October 2007, her (b)(6) sons were killed in an airstrike by the U.S. Air Force.
6. **Recommendation:**
 - a. In order to have a cognizable basis for a claim under the Foreign Claims Act, the claimant must demonstrate that the incident occurred outside of the United States and that the damage was caused by noncombatant activities of the U.S. Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the U.S. Armed Forces. Additionally, a settlement authority may pay a claim even if the injury results from a criminal act clearly outside the scope of employment or duties of the military member or civilian employee. See AR 27-20, para. 10-3a.
 - b. Based upon the claimant's version of the events, her sons were killed in an airstrike by U.S. Forces during a combat action. Accordingly, her claim is not compensable under the Foreign Claims Act.
 - c. Pursuant to paragraph 10-9c, AR 27-20, the undersigned one-member FCC lacks authority to deny this claim, which seeks compensation in the amount of \$40,000.00. I hereby forward

AFYB-IN-JA

SUBJECT: Forwarding Memorandum and Recommendation for Action on Claim of (b)(6)
(b)(6) Claim # 08-IJ6-T052

this claim to the three-member FCC for further action and processing. While very unfortunate, the deaths of the claimant's sons resulted from combat-related activities of U.S. Forces and therefore are not compensable under the Foreign Claims Act. Accordingly, I must recommend that this claim be denied.

7. POC is the undersigned at VOIP 676-5150 or at (b)(3), (b)(6), (b)(2)High

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

MAJ, JA USAR
Foreign Claims Commission
I2A

Claims Form

طلب تظلم

Name (b)(6) _____ الاسم: _____
Address: (b)(6) _____ العنوان: _____
Phone N _____
I am
a. A national citizen of: Iraq أنا: أحمل جنسية: Iraq
b. A permanent resident of: Above address ب. عنواني الدائم: Above address
c. Employed by: _____ ت: أعمل لدي: _____

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

Unit 1-40 Cav

أنتي أتظلم لدي حكومي الولايات المتحدة للأضرار والإصابات التي نجمت من: (المنظمة، الوحدة العسكرية)

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.)

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

My claim arose at: Awarcej At Al Rashed Area Babhdad Iraq
(Town) (City) (Country)

تظلمي قدم في: القرية المدينة البلاد أو المحافظة

My claim arose on: July 8 2007
Month Day Year

تظلمي قدم في: _____
الس يوم شهر

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.)

The claimant that said that their area exposed
Bombing by American air forces and white

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

الأسطر لتكني)
their sons there they killed both of them

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>
(b)(2)High	6 Foreign Language
Total: _____	

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

<u>تكلفته</u>	<u>الشيء المتضرر</u>
_____	_____
_____	_____
_____	_____
إجمالي التكلفة: _____	

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

no insurance

لدي تأمين على الممتلكات أو الضرر الجسدي المتضرر بما يوازي:

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

\$ 40 000 ? I.D. \$ 50 000 000

اطالب 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 تنظم (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 التنظم فإن تقسم على أن كل المعلومات المقدمة في هذا التنظم هي صحيحة وعقيدية. أي شخص يحاول تقديم تنظم كاذب أو مختلق أو يزور التنظم ضد حكومة الولايات المتحدة الأمريكية سوف يواجه عقوبات جنائية حادة ويحاكم من قبل السلطات.

(Signature of Claimant)

(توقيع التنظم) الرجاء كتابة الاسم والتوقيع

Subscribed to me this 25 day of oct, 2007.

(Signature of Witness)

(Printed Name)

foreign language

foreign language

foreign language

foreign language

while they were ~~fighting~~
American air force
900...
witness
the D...
back

foreign language

foreign language

foreign language

foreign language, (b)(6)

Foreign Language Text

(b)(6)

foreign language

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7 times and
Death
Young Man

(b)(3), b(6)

Second
the Area
by Area
that

(b)(6)

(b)(6)

foreign language

foreign language

*The claimant
Statement*
was...
of her son

(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(3), b(6)

foreign language

foreign language

foreign language, (b)(6)

foreign language

Foreign Language T

(b)(6)

Foreign Language Text

(b)(6)

The chief of the ~~Area~~ Washed Area
Confirms that the
were living in Alpa
... Form
ea.

foreign language, (b)(6)

Death certificate for

(b)(6)

Foreign Language Text, (b)(6)

foreign language

(b)(6)

foreign language

(b)(6)

(b)(6)

(b)(6)

*Graduate Certificate indicate they
was graduated in*

foreign language, (b)(6)

Beathentic

(b)(6)

foreign language, (b)(6)

foreign language, (b)(6)

Foreign Language Text, (b)(6)

anguage T

Language Tex

The report from the Deonso
Iraq Court's firm that
victim July 1/2003

(b)(6)

foreign language, (b)(6)

foreign language, (b)(6)

foreign Language Tex

language T

Document indicates
that the witness
died on July 20, 1968

foreign language, (b)(6)

foreign language, (b)(6)

Witness
Her Name (b)(6)
She said that on 8/5/74
this area was bombed by
American Air Force and that
caused a death of Johnny
(b)(6)
(b)(6)
(b)(6)
(b)(6)
(b)(6)

Pages 22 through 25 redacted for the following reasons:

(b)6 Foreign Language

foreign language, (b)(6)

(b)(6), foreign language

witness
Same saying

foreign language, (b)(6)

foreign language, (b)(6)

foreign language, (b)(6)

foreign language, (b)(6)

witness

(b)(6)

(b)(6)

(b)(6)

(b)(6)

Same saying

foreign language, (b)(6)

foreign language, (b)(6)

at witness
same saying

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

foreign language, (b)(6)

foreign language, (b)(6)

(b)(6)

foreign language, (b)(6)

*Statement
The American Forces
Bombing This Area at
Doverij And Caused Death
of 1, 5
Some-*

(b)(6)

foreign language
foreign Language T

(b)(6)

foreign language, (b)(6)

Pages 30 through 31 redacted for the following reasons:

(b)6 Foreign Language



(b)(6)

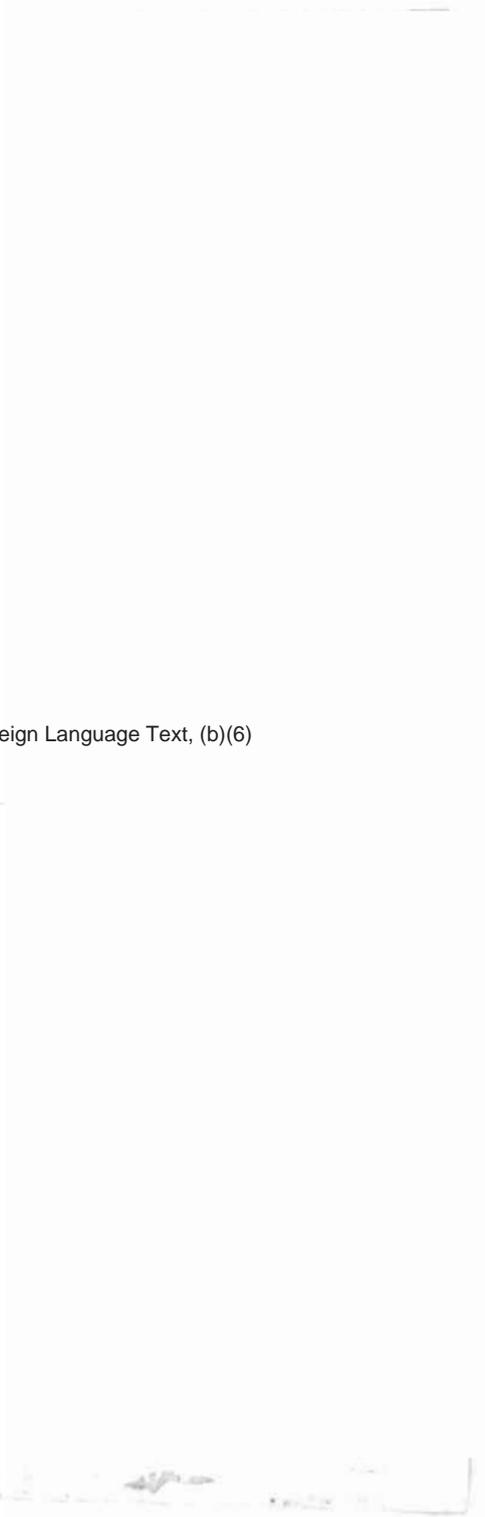
(b)(6)

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

Foreign Language Text, (b)(6)

[Redacted]



Foreign Language Text, (b)(6)

