

FOREIGN CLAIMS COMMISSION COVER SHEET

Claim Number: 2.0562

USARCS NUMBER: 1451-05

Date Received: 19-Sep-05

Name: (b)(6)

Address: (b)(6) The green Zone, Baghdad, Iraq

Claim Summary: Claimant's brother was shoot and killed by smallarms fire involving Coalition Forces

Date of Incident: 11-Jun-05

Amount Requested: \$30,000.00

Recommendation: Approval Denial
Investigation

Date Reviewed by OIC:

*FWD TO DIV
Pay or NO?*

Claim Is: Approved in the amount of \$_____.

Denied. Denial Code _____

On hold pending investigation findings.

Pages 2 through 42 redacted
for the following reasons:- - - - -

Foreign Language TextForeign Language Text,
(b)(6)

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION <i>Intercession of Cavalry Cavalry Detachment</i>	2. DATE (YYYYMMDD) <i>06/11/92</i>	3. TIME <i>1412</i>	4. FILE NUMBER
5. LAST NAME FIRST NAME, MIDDLE NAME <i>(b)(3),(b)(6)</i>	6. SSN <i>(b)(3),(b)(6)</i>	7. GRADE/STATUS <i>CPT/SGT</i>	
8. ORGANIZATION OR ADDRESS <i>SCOUTS, HHC, 1-68AC, 2UA, 3ID</i>			

9. I, *(b)(3),(b)(6)* WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
~~WOTTBWG~~ ~~BEFORE~~
 (b)(6) *At approximately 1300hrs on 11/5/92 my section (B) were set in an overwatch position of the overpass. I saw a blue vehicle stop on the overpass. The passenger of the car got out and placed a black tube with a pipe extending out of it on the ground. He then looked up and saw us in our position. Once he had identified us, he picked up the black tube and started trying to put it in the trunk. At this time SSG (b)(3),(b)(6) called over the radio to fire warning shots near the vehicle. Myself & Sgt (b)(3),(b)(6) intimidated and fired several warning shots near the blue car. The passenger ran to the right side of the car and jumped in. They tried to flee from the area so I fired several more shots into the ^{front (b)(3)(b)} tire and engine compartment. At this time the passenger got out with his hands up and we went to secure the site. Once we got up there we got the passenger out and searched him. He told us the driver was injured. We searched the ~~car~~ and then let the medic, SPC (b)(3),(b)(6) see the injured driver. ~~At that time he pronounced him dead due to a round that hit him in the right side of his back.~~*

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT <i>(b)(3),(b)(6)</i>	PAGE 1 OF <u><i>2</i></u> PAGES
ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____"		
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND PAGE NUMBER MUST BE INDICATED.		

CENTCOM 005772

STATEMENT OF

(9)(q)(ε)(q)

TAKEN AT

1412

DATED

11 JUN 85

9. STATEMENT (Continued)

(9)(q)(ε)(c)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

The search of the car came up clean. The black tube with the pipe extending from it turned out to be a muffler rapped in a rubber floor mat.

(9)(q)(ε)(q)

NOTHING FOLLOWS

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

AFFIDAVIT

(9)(q)(ε)(q)

I, _____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE

(9)(q)(ε)(q)

(Signature of Person Making Statement)

WITNESSES:

(9)(q)(ε)(q)

Subscribed and sworn to before me, a person authorized by law administer oaths, _____ day of _____ at _____

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

USAPA V1.00

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1. LOCATION	2. DATE (YYYYMMDD) 2005-06-11	3. TIME 1412	4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME (b)(3),(b)(6)	6. SSN	7. GRADE/STATUS F-5	
8. O. <u>HHC 1-64 AR</u>			

9. I, (b)(3),(b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:
 ON 11 JUNE 2005 ON OF AROUND 1320 BROAD SECTION WAS
 OVER WATCHING THE INTERSECTION OF CANAL AND ROAD ^{(b)(3)(b)} A BLACK CAR STOPPED
 ONE MAN GOT OUT LOOKED OVER AT US AN WANT TO PICK SOMETHING
 UP ON THE SIDE OF THE ROAD HE STOOD BACK UP AND THEN
 PICKED UP A LARGE ROUND OBJECT WE WERE GIVEN THE ORDER TO FIRE WARNING
 SHOTS SO I (b)(3),(b)(6) FIRED ABOUT THREE WARNING SHOTS. THE
 MAN THEN STARTED RUNNING TO HIS CAR WITH THE OBJECT I (b)(3),(b)(6)
 FIRED ABOUT 2-3 MORE SHOTS AT THE GROUND, THE MAN CONTINUED TO PUT THE
 OBJECT IN HIS TRUNK AND RAN AROUND TO THE FRONT OF THE CAR I THEN
 FIRED 3-4 MORE ROUNDS IN THE BACK TIRE AND TRUNK OF THE CAR. THEN
 WE RAN UP TO ASSESS THE SITUATION, WE I FOLLOWED SGT (b)(3),(b)(6) AND THE
 MEDIC WAS BEHIND ME. WE OPEN THE TRUNK AND FOUND OUT THE OBJECT
 WAS A MUFFLER PIPED IN A BLACK FLOOR MAT. THEN WE WENT TO
 GIVE THE CASUALTY FIRST AID BUT HE WAS ALREADY DEAD.
 NOTHING ELSE ~~FROM~~ FOLLOW (b)(3),(b)(6)

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF _____ PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT _____ TAKEN AT _____ DATED _____"
 THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER
 MUST BE INDICATED.

STATEMENT OF _____ TAKEN AT _____ DATED _____
STATEMENT (Continued)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

AFFIDAVIT

_____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE _____. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(Statement)

WITNESSES:

(9)(q)(ε)(q)

Subscribed and sworn to before me, a person authorized by law to administer oaths, _____ day of _____ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT _____

(9)(q)(ε)(c)

PAGE _____ OF _____ PAGES

USAPA V1.00

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PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Baghdad, Iraq, Canal New Baghdad
2. DATE (YYYYMMDD): 2005 06 11
3. TIME: 15:20
4. FILE NUMBER:
5. LAST NAME, FIRST NAME, MIDDLE NAME: (b)(3),(b)(6)
6. SSN:
7. GRADE/STATUS: E-6/SSG

8. SCENARIO: Scouts HHC 1/64 AR

9. I, (b)(3),(b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: (with high hands)

While on overwatch of intersection of Canal New Baghdad, I saw one person place a round long object on the ground, the person saw me and my soldiers and picked it up. The vehical then began to go against traffic with the person running beside it. I ordered my men to stop the car so that we could search it. Warning shots were fired and the car keep on moving I then told them to stop the car. More shots were fired and the car stopped. We approached the car on foot and found the driver to be dead. We called the TOC and Iraqi police arrived. Time was 1310hrs on the 11th of June 2005.

nothing follows

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

10. EXHIBIT: PERSON MAKING STATEMENT: PAGE 1 OF 1 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING STATEMENT TAKEN AT DATED
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND PAGE NUMBER MUST BE BE INDICATED.

STATEMENT OF

(9)(q)(ε)(q)

TAKEN AT

Reston

DATED

11 June 2005

STATEMENT (Continued)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(9)(q)(ε)(q)

AFFIDAVIT

_____, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE _____. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL _____ OR UNLAWFUL INDUCEMENT.

(9)(q)(ε)(q)

(9)(q)(ε)(q)

(statement)

WITNESSES:

(9)(q)(ε)(q)

Subscribed and sworn to before me, a person authorized by law administer oaths, _____ day of _____ at _____

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE OF PAGES

USAPA V1.00



DEPARTMENT OF THE ARMY
HEADQUARTERS, THIRD INFANTRY DIVISION (FWD)
OFFICE OF THE STAFF JUDGE ADVOCATE
APO AE 09352

REPLY TO
ATTENTION OF:

AFZP-JAC

24 September 2005

MEMORANDUM FOR RECORD

SUBJECT: Action on Claim of (b)(6) 1451-05

1. Facts. U.S. forces observed a black vehicle stop on the side of the highway and the passenger exit the vehicle. The passenger made eye contact with the U.S. patrol, picked up a long cylindrical object, and began to run. The vehicle also began to drive away. U.S. forces fired multiple warning shots before the vehicle stopped. When they approached the vehicle, soldiers discovered the driver (claimant's brother) had been mortally wounded.

Claimant has requested \$30,000.

2. Opinion. In order to form a basis for a claim under the FCA, it must be shown that the incident occurred outside the United States, and that it was caused by noncombatant activities of the United States Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the Armed Forces. In this case, the damage was a result of combat activities and therefore is not compensable under the FCA.

3. Authority. The Foreign Claims Act (10 U.S.C. § 2734) as implemented by AR 27-20, Chapter 10.

4. Action. The claim is denied.

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

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

CW2, JA
FCC IJ4

CPT, JA
FCC IJ4

CENTCOM 003778

**DEPARTMENT OF THE ARMY
HEADQUARTERS AND HEADQUARTERS COMPANY
2D BRIGADE, 3D INFANTRY DIVISION
FOB LOYALTY, APO AE 09380**

REPLY TO
ATTENTION OF:

AFZP-VB-JA

23 September 2005

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6)

1. Claimant's name and address: (b)(6) Green Zone, Baghdad, Iraq.

2. Date and place the incident occurred giving rise to the claim: Incident occurred on 11 June 2005, at Canal Road, Baghdad, Iraq.

3. Amount of claim and date it was filed: Claimant filed a claim in the amount of \$30,000.00 on 19 September 2005.

4. Claim considered under the Foreign Claims Act and Chapter 10, AR 27-20; claimant filed for death of claimant's brother by small arms.

5. Facts:

- a. On 11 June 2005, the claimant's brother was shot and killed by small arms fire.
- b. The death was caused by combat operations involving Coalition Forces.

6. Opinion:

a. In order to form a basis for a claim under the FCA, it must be shown that the incident occurred outside the United States, and that it was caused by non-combat activities of the United States Armed Forces or by the negligent or wrongful acts of military members or civilian employees of the Armed Forces.

b. The death was caused as a result of combat operations.

c. The claim is not meritorious.

7. Recommended Action: Disapprove the claim.

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

CPT, JA
Single Member FCC

CENTCOM 003779

Claims form
Us foreign commission

Claim# 2-060-5

Claimant name (b)(6)
-address----- Mr. Green Zone

Relation ship the victim's brother Sec/--- (b)(6)
Age--- (b)(6) ---Dob d/m/y--- (b)(6)
A citizen and national of /--- Iraq
A permanent resident /--- Baghdad

Type claim (circle which applied)

- 1-Vehicle
- 2-Personal property
- 3-Real estate
- 4-Personal injury
- 5-Death**

Have you filed acclaim before (circle which applied) YES OR NO

Date incident occurred :/D/ 11th /M/ June /Y/ 2005

Place incident occurred: /----- canal road -----

SITUATION An American patrol closed the canal road for security reasons. The victim was trying to repair his car. The soldiers suspected him and shot him dead.

List in detail amount of property damage and itemized expense resulting from the property damage personal injury: (attach bills and receipts, if applicable).

Item	Amount
<u>We ask compensation</u>	

TOTAL AMOUNT: US DOLLAR 30,000.00 thirty thousand
IRAQI DINAR U.S. D

Today date: D/ 5th /M/ Sep /Y/ 2005

Translator _____ (b)(6)
Signature _____ (b)(6)

- O AT 1300 1-64 AR REPORTS OBSERVING 1 X LN EMPLACING AN UNKNOWN OBJECT ON THE SIDE OF RTE (b)(2)High THE CONVOY ATTEMPTED TO STOP THE VEHICLE AND USING ESCALATION OF FORCE FIRED WARNING SHOTS THEN ENGAGED THE VEHICLE. 1 X LN KIA. 1-64 AR SECURED THE SITE AND CONTACTED IPs FOR ASSISTANCE. PATROL DID NOT DISCOVER ANY AIF RELATED EQUIPMENT.

SUMMARY:
1 X LN KIA

CLOSED OUT.

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

SFC 2BDE 3ID JAG

From: (b)(3),(b)(6) CPT MNC-I SJA Claims Judge Advocate (b)(3),(b)(6), (b)(2)High
Sent: Tuesday, November 08, 2005 10:59 AM
To: (b)(3),(b)(6) SFC 2BDE 3ID JAG
Subject: FW: [U] RE: Death of Iraqi Civilian -- Compensation Request

Classification: UNCLASSIFIED

SFC (b)(6)

I hear they come in three's.

The below email train is all I know of the situation. It does not sound entirely right. The claimant specifically states 2 Bde, 3I. That is why I cam forwarding you the claim.

Can you take care of this?

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

Classification: UNCLASSIFIED

If this e-mail is marked FOR OFFICIAL USE ONLY it may be exempt from mandatory disclosure under FOIA. DoD 5400.7R, "DoD Freedom of Information Act Program", DoD Directive 5230.9, "Clearance of DoD Information for Public Release", and DoD Instruction 5230.29, "Security and Policy Review of DoD Information for Public Release" apply.

(b)(3),(b)(6) (b)(3),(b)(6), (b)(2)Hic

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

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

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

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

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

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

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

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

Nonresponsive

From: (b)(3),(b)(6) [mailto:(b)(3),(b)(6), (b)(2)Hig
Sent: Tuesday, November 01, 2005 3:55 PM
To: (b)(3),(b)(6) CPT MNC-I SJA Claims Judge Advocate
Subject: Death of Iraqi Civilian -- Compensation Request
Importance: High

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

I am an American citizen in Baghdad working with a USAID contractor, and have been asked by an Iraqi staff member to inquire as to why an application for compensation for accidental death was declined by the US Army. A relative of my staff member was shot and killed on 11 June 2005 by US forces from 2 Bde, 3ID, when, as they were on over-watch in New Baghdad for an MNFI movement, they mistakenly perceived his actions – movement of a muffler along the side of the road near his vehicle – as being hostile. During this action the man's young son was present, and witnessed the death of his father. Your advice as to how best to proceed would be most appreciated. I have a copy of the application file, to include sworn statements by US soldiers involved, in my possession.

Your kind advice by return would be most appreciated.

Best regards,

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

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

(b)(6)

Baghdad Office

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

11/8/2005

CENTCOM 003783



Iraqi Claims Form



Iraqi Claims Form

The Army may pay claims to Iraqi civilians for property damage, injury and death caused by US Forces.

If your unit is involved in an incident resulting in damage to property of an Iraqi civilian, or injury or death of an Iraqi civilian:

1. Fill out the required information below.
2. Give this card to the Iraqi civilian, or other appropriate person in the case of death.
3. Direct them to the Government Information Center located at either the 9 Nissan District Advisory Council Building in Mahala 731 (Old Military Hospital) or the Sadr City District Advisory Council Building located in Mahala 514.

UNIT _____
DATE 11/6/2005
LOCATION NEW BAGHDAD
DAMAGE DEATH ACCIDENT AND CAR
NAME (Optional) _____

بطاقة طلب تعويض للعراقيين

إذا استلمت هذه البطاقة من جندي أمريكي عندها سيكون طلبك للتعويض محفوظاً

لدى المركز الحكومي للمعلومات في إحدى المراكز التالية.

1- مدينة الصدر (الثوره) - المركز الحكومي للمعلومات - بناية المجلس الاستشاري.

المحلي محله 514 قرب مقر القنصلية.

2- 9 نيسان - المركز الحكومي للمعلومات - بناية المجلس الاستشاري المحلي - محله 731.

المستشفى العسكري القديم.

اجلب معك هذه البطاقة وسيكون هناك مترجم عراقي سيساعدك لحفظ طلبك للتعويض.

من قوات الولايات المتحدة.

لواء الحصان الحديدي