



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 2D STRYKER CAVALRY REGIMENT
FOB WARHORSE, IRAQ
APO AE 09336

29 August 2008

AFZH-BA-JA

MEMORANDUM OF OPINION

SUBJECT: Claim of (b)(6) Claim 08-NMD-0027

1. **Identifying Data:** (b)(6)
2. **Date and place the incident occurred giving rise to the claim:** The claim originated in Sherwin Village on 13 December 2007.
3. **Amount of claim and date it was filed:** The amount of the claim is 40,000,000 Iraqi Dinar, or \$33,408.00. On 22 March 2008, the claimant filed a claim for the destruction of his house by Coalition Forces (CF).
4. **Jurisdiction:** This request is presented for consideration under the provisions of the Foreign Claims Act, (FCA) 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20 and Department of the Army Pamphlet 27-162, Chapter 10. This claim was properly filed in a timely manner.
5. **Facts:**
 - a. The claimant alleges that CF bombed his house and killed his family. He provided six envelopes labeled "13 Dec GIMLR Accident Condolence."
 - b. A search of the SIGACTs turned up an event that matches this incident. This house was being used to fire mortars at CF, and was therefore targeted. A reconnaissance of the target resulted in the discovery of three KIA local nationals.
 - c. The claimant submitted several witness statements, photographs, death certificates, and a report by a judicial investigator in support of his claim.
6. **Opinion:** The claim is denied because of the combat activity by the CF that destroyed the house being used to attack CF. Claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. Damages caused by enemy action, or by the U.S. Armed Services resisting or attacking an enemy or preparing for immediate combat with an enemy are certain to be considered as arising from combat activities (DA PAM 27-162, paragraph 10-3b).

CENTCOM 008058

AFZH-BA-JA

SUBJECT: Claim of

(b)(6)

Claim 08-NMD-0027

7. Recommendation: This claim is denied under the FCA because combat activity is not payable under the FCA.

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

CPT, JA

Foreign Claims Commission IL2

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

SGT Warhorse RHHT 2SCR

From: (b)(6), (b)(3) CPT 2SCR RHHT Legal JAG
Sent: Thursday, August 28, 2008 11:42 AM
To: (b)(6), (b)(3) C SGT Warhorse RHHT 2SCR
Subject: RE: 08-NMD-0027 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Agreed.

V/r,

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

CPT, JA
Regimental Trial Counsel
2d Stryker Cavalry Regiment
FOB Warhorse, Iraq
DSN:
NIPR: (b)(6), (b)(3), (b)(2)Hic@iraq.centcom.mil
SIPR: (b)(2) High

-----Original Message-----

From: (b)(6), (b)(3) SGT Warhorse RHHT 2SCR
Sent: Thursday, August 28, 2008 11:01 AM
To: (b)(6), (b)(3) PT 2SCR RHHT Legal JAG
Cc: MSG 2SCR Sr. Paralegal
Subject: 08-NMD-0027 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Sir,

(b)(5), (b)(6)

There are more files to this claim, but the total size is too large to send via email. This file is the "meat and potatoes" of the claim.

v/r

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

SGT, USA
2d SCR Foreign Claims NCO

"My fellow Americans. I'm pleased to announce that I've signed legislation outlawing the Soviet Union. We begin bombing in five minutes." -- R. Reagan

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, 3D SQUADRON
2D STRYKER CAVALRY REGIMENT
FORWARD OPERATING BASE NORMANDY, IRAQ
APO AE 09324



AFZH-BAD

18 August 2008

MEMORANDUM FOR Commander, 2d Stryker Cavalry Regiment, Forward Operating Base
Warhorse, Iraq, APO AE 09336

SUBJECT: The Claim of (b)(6)

1. On 22 March 2008, (b)(6) submitted a claim at FOB Fallock, Iraq. Mister (b)(6) asserts that on 13 December 2007, a bomb hit his house, destroying his house and killing his family. I searched the CIDNE database and found an event that matches what the claimant describes. Mister (b)(6) also provided six envelopes labeled '13 DEC GIMLR ACCIDENT CONDOLENCE', but has not told me the amount he received. Mister (b)(6) is claiming ID 40,000,000 (\$33,408).

2. I recommend denial of this claim. Mister (b)(6) house was lawfully targeted as the point of origin of a mortar attack on KWAL. Mister (b)(6) has already been paid through CERP.

3. Questions and comments may be remitted to me at (b)(6), (b)(3) @us.army.mil or by calling (b)(2)High .

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

SGT, U.S. Army
Military Paralegal

CENTCOM 008061

Claims Form

طلب تظلم

Name:

(b)(6)

Address:

I am

a. A national citizen of:

1222

أنا
أ. أحمّل جنسية:

b. A permanent resident of:

ب. عنواني الدائم:

c. Employed by:

(b)(6)

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)

1222

أنتى أنتظلم 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.)

(b)(6)

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

My claim arose at:

1222
(Town)

(City)

(Country)

البلد أو المحافظة

المدينة

القرية

تظلمى قدم في:

CENTCOM 008062

My claim arose on: DEC 13 2007
Month Day Year

تظلمى قدم فى: _____
الس بوم 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.)

AT DESTROYED HOUSE (KIA)
HOUSE DESTROYED

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

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>HOUSE DESTROYED (KIA)</u>	<u>45,000,000</u>
<u>COL. HOUSE RINS</u>	
Total: _____	

أشرح بالتفصيل متى تضرر والكلفة للممتلكات أو للإصابات الجسدية وتكلفتها (الرجاء إضافة الثبوتات والمتمسكات والفواتير الضرورية لكل شئ أو وحدة)

<u>تكلفته</u>	<u>الشئ المتضرر</u>
_____	_____
_____	_____

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:

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

\$ 33,408 I.D. ٤١٥,٥٣٥,٥٣٥

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

_____ \$ العملة المحلية

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

سابقا (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.

ومات المقدمة في هذا التظلم هي صحيحة وحقيقية. أي شخص يحاول تقديم تظلم كاذب أو مدعى

ملاحظة: بالتوقيع تظلم كاذب أو مدعى

(b)(6)

(Signature of Claimant)

(توقيع)

Subscribed to me this _____ day of MAR 22 2009

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

(Signature of Witness)

SGT

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

(Printed Name)

INITIAL REPORT

WHO:TF 2-23 IN

WHEN:131325DEC07

WHERE: (b)(2) High

WHAT: B/2-23 In reported that they have eyes on a unknown number of UE maneuvering on PB KWALL, they are requesting air clearance to conduct fire mission.

131331DEC07: Air is cleared for fire mission from KWALL

131332DEC07: rounds shot

131334DEC07: mission complete (b)(2) High

131334DEC07: Repeat was called and mission was re-fired.

131337DEC07: Rounds complete End of mission

131338DEC07: While observing B/2-23 IN fire mission,(b)(2) Highwitnessed an enemy mortar team firing from a house at (b)(2) High

131348DEC07: Air is still clear, and going to shoot the enemy mortar team with (b)(2) High delay.

131352DEC07: End of mission rounds complete. Enemy and house not destroyed.

131356DEC07: Enemy mortar team began to fire again.

131403DEC07: BDE approve(b)(2) Highmission to engage enemy mortar team firing.

131414DEC07: BDE will be firing (b)(2) High
(b)(2) High . We are standing by for shot.

131425DEC07: (b)(2) Hig was fired and(b)(2)Hig till time on target.

131426DEC07:B/2-23 confirms they observed a house being destroyed.

131432DEC07: Sent B/2-23 IN to conduct BDA they reported that they had found 3 X LN KIA and the house that was hit was destroyed. B/2-23 IN reported that the local populace was currently yelling and chanting "Allah Akbar" a mob situation is slowly developing. With no air assets available, Tomahawk 6 ordered B CO to return back to KWALL for thier safety. B/2-2 IN reported that the Muqtar of Shakarat is at the front gate of PB Kwall.

131419DEC07:NFTR

BDA:1 X House

KIA:3 X LN

(b)(2)High

In The Name of God
Republic of Iraq
Diayla-

No- 2358

Date: 26-2-2008

Muqadalia Town Council

To / COMC - Normandy Camp.

Subject / Support

According to demand by judge, we witness that

(b)(6)

the owner of the house

that was destroyed by the American forces. We

hope you give help for them.

With regards.

(b)(6)

Chief of Muqadalia town
Council

26-2-2008

GENCOM 008066

Al-Muqaddia police-station
20-2-2008.

opening Investigation

The statement of Complainant (b)(6)
, who was born in (b)(6) lives in Shakirak -

On 13-12-2008, the American planes bombed the house that belongs to me that locates in Shakirak village which led to destroy the house completely with all its contains of furniture. My house is built of bricks and concrete - I ask complaint and my claim from the coalition forces

A I T

(b)(6)

In The Name of God

Mr. Examining Judge of Baghdad Court

On 13-12-2008, the American planes bombed the house that belongs to me that locates in Shakurak village and the accident led to destroyed the house completely with all its contains of furniture. Also, the accident led to Kill (b)(6) of my family. I was compensated about my killed children, by the C.F., but I don't receive a compensation about the house and its contains.

I ask your respectable court to begin investigation and to make damage report

with regards.

Claimant

(b)(6)

In The Name of God
Mr. Examining judge of Meqdadia Court

Subject / Damage Report

According to alert me to account the damages of
(b)(6) whose house was attacked
, and after observing the complainant's statement and
the investigation papers, I account the damages in
the house with 40,000,000 I.D.

with regards.

Lawful expert

(b)(6)

24-2-2008.

Al-Muqdadia Police-Station

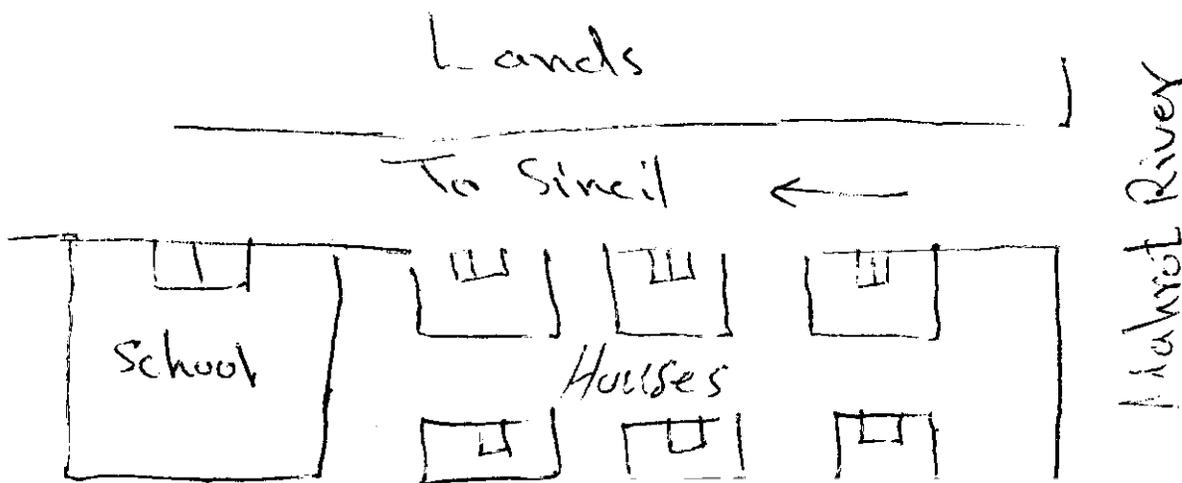
20-2-2008

According to Muqdadia investigation's judge to do observing and drawing to the place of accident, I have seen the following :-

- 1- The place of accident is about two km. from our station.
- 2- The place of accident is a house belongs to the complainant that build of bricks and concrete
- 3- The house was destroyed completely and the complainant said that the American planes bombed it -
- 4- All the furniture were destroyed -

F. LT

(b)(6)



(b)(6)

From Leader of the coalition Forces in Normandy

(b)(6)

To / Muegdaetia police-station

We have made a wrong act by bombing the house
that belongs to (b)(6) on 13-12-2008
at 2 p.m. and (b)(6) his family were died.

(b)(6)

They all were inside the house when bombing by
the coalition forces.

The accident was wrong act.

We hope you help them in your police-station

Colonel

(b)(6)

Leader of the C.F
Normandy

Sergant

(b)(6)

assistant leader

COM 008071

Pages 15 through 30 redacted for the following reasons:

Foreign Language Text, (b)(6)



CENTCOM 008088



CENTCOM 008089

13 DEC GIMLR
ACCIDENT
CONDOLLENCE

13 DEC GIMLR
ACCIDENT
CONDOLLENCE