

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



DEPARTMENT OF THE ARMY
3rd Infantry Brigade Combat Team Command Judge Advocate
3rd Infantry Brigade Combat Team
FOB Warrior, Kirkuk, Iraq, APO AE 09338

APVG-ZZO-JA

12 September 2007

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] (b)(6) 07-I14-T347

1. Claimants name and address: [REDACTED] (b)(6) Rashad, Iraq.
2. Incident date and place the incident occurred giving rise to the claim: Incident occurred on 7 November 2007 in Tikrit, Iraq.
3. Amount of claim and filing date: Claimant filed a claim in the amount of \$6,340.00 on 6 August 2007.
4. Chapter the claim was considered under and a brief description of the incident or of the issues raised by the claimant on reconsideration: Foreign Claims Act and Chapter 10, AR 27-20; claim filed for property damage and death of a local national.
5. Facts:
 - a. [REDACTED] (b)(6) claims that on 7 November 2007, his family was driving to Kirkuk when a CF helicopter shot at them causing his infant son to be killed and causing property damage to his vehicle.
 - b. There was a car title, power of attorneys, ID cards, witness statements, a death certificate, estimates, and medical reports included in the submitted claim.
 - c. The incident was able to be verified by the unit responsible.
6. Opinion:
 - a. In order to form a basis for a claim under the FCA, the incident has to occur outside of the United States and be from either non-combat activities of the U.S. Armed Forces or by negligent or wrongful acts of military members or civilian employees of the Armed Forces.

APVG-ZZO-JA

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b. There is insufficient evidence to suggest that this incident arose out of the negligence and/or wrongful acts of the United States Armed Forces. Any appeal must be submitted within 30 days.

7. Action: This claim is not payable under the FCA for the above mentioned reasons. Consequently this claim for \$6,340.00 is denied.

[REDACTED] (b)(3), b(6)

CPT, JA
Foreign Claims Commissioner

Page 4 redacted for the following reason:

(b)(5)

CLAIM FOR DAMAGE .OR INJURY DEATH

INSTRUCTION: Please read carefully the instruction on the reverse side and supply information requested on both sides of this form .Use additional sheets (s)

person From approve MBC

1.submitt to appropriate Agency

(b)(6)

2-.Name of claimants & Address

(b)(6)
POA/ (b)(6)

3.TYPE OF EMPLOYEE

4.DATE OF BIRTH

(b)(6)

5.MARITAL STATUS.

Married

6.DATE & DAY OF ACCIDENT

7th Nov.06

TIME:

7:00 PM

02-114-T347

On the 7thNov.06, the claimant was driving his vehicle (pick up/ Toyota) on the way Kirkuk to Tikrit with his family, a CFS helicopter attacked his vehicle caused the claimant and his wife with (b)(6) of his children injured, wrongfully death of (b)(6) children and damages his vehicle. The CFS transferred the family to Fob Spikier down in Tikrit.

9. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER THAN CLAIMANT (NUMBER, street, city, state, city, state, and, zip code)

(b)(6)

De

10 5 injured , 3 wrongfully death

Personal injury/wrongfully death

WITNESSES

NAME

ADDRESS

(b)(6)

(b)(6)

Amount of claim (IN Dollars)

12A PROPERTY
4,800,000 ID

12b PERSONAL INJURY

12c WRONGFUL DEATH

12A
4,800,000 (b)(6)

I CERTIFY THAT AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURY CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a.SIGNATURE OF CLAIMANT

(b)(6)

13b.Phone number of signatory

14c.Date of claim

26th Jul.07

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Pages 6 through 9 redacted for the following reasons:

(b)(5)

foreign language, (b)(6)

foreign language, (b)(6)

Witness statement

I am the undersigned certified that CFS helicopter attacked (b)(6) vehicle
Caused his wife with his (b)(6) children injured, wrongfully death of (b)(6) children and damages
His vehicle.

Witness

(b)(6)

foreign language, (b)(6)

Witness statement

I am the undersigned certified that CFS helicopter attacked [redacted] (b)(6) vehicle
Caused his wife with his [redacted] children injured, wrongfully death of [redacted] children and damages
His vehicle.

Witness

[redacted] (b)(6)

Car Title

Owners name: [redacted] (b)(6)

Address [redacted] (b)(6)

Plate ; [redacted] (b)(6)

Model:Toyota

Year: [redacted] (b)(6)

Engine : [redacted] (b)(6)

Chassis : [redacted]

Color:wihte

Date: 26-8-2008

Undersigned by record officer & chief of traffic department

[redacted signature area]

foreign language, (b)(6)

Pages 15 through 17 redacted for the following reasons:

(b)(6), Nonresponsive

foreign language

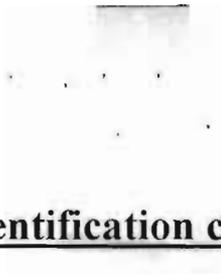
حضر السيد :

الجموع	
دينار	فلس
wind shield	
Rear glass	
Front door glass	
Front door of car	
FRONT DOOR	
TRUCK	
SPACE	
SEATS	
PIST	
TIVES	
ELECTRIC	

Σ	4,800,000	ID Dinar
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Σ	4,800,000	ID Dinar
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foreign language, (b)(6)



Identification card

Office:Kirkuk

Number:

Name:

Father's name :

Mother's name

Gender:Male

Issue date:13-2-2007

Religious:Moslem

Date of birth:

Place of birth:

Statues:Married

Wife's name:

Physical disablement:-----

foreign language, (b)(6)

Identification card

Office:Kirkuk

Number:

Name:

Father's name :

Mother's name:

Gender:Male

Issue date:2003

Religious: Moslem

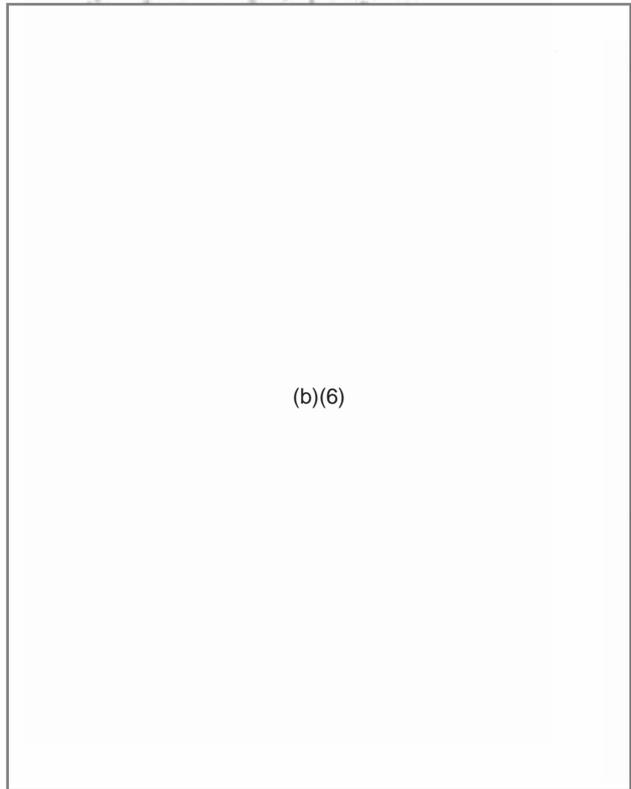
Date of birth:2003

Place of birth:

Statues:single

Wife's name:

Physical disablement:-----



foreign language, (b)(6)

Foreign Language Text

Death certificate

Health department: Kirkuk

Number: (b)(6)

Date: 5-12-2006

Deceased name: (b)(6)

Sex: female

Nationality: Iraqi

Religious: Muslim

Job:

Statuses:

Birth date: (b)(6)

Date of death: 4-12-2006

Place of death: tikret

Reason of death: Bleeding because off bullets

Fathers name: (b)(6)

Signed by: (b)(6)

on 5TH NOV.06

(b)(6), foreign language

Foreign Language Text

Death certificate

Health department: Kirkuk

Number:

Date:13-11-2006

Deceased name:

Sex: female

Nationality: Iraqi

Religious: Muslim

Job:

Statues:

Birth date

Date of death:

Place of death: tikret

Reason of death: Bleeding because off bullets

Fathers name :

Signed by :

on 11TH NOV.06

foreign language

CERTIFICATE OF DEATH (OVERSEAS) Acte de décès (D'Outre-Mer)				
NAME OF DECEASED (Last, First, Middle) Nom du décédé (Nom et prénoms)		GRADE Grade	BRANCH OF SERVICE Arme	SOCIAL SECURITY NUMBER Numéro de l'Assurance Sociale
(b)(6)		NIA	NIA	NIA
ORGANIZATION Organisation		NATION (e.g., United States) Pays	DATE OF BIRTH Date de naissance	SEX Sexe
		IRAQ		<input type="checkbox"/> MALE Masculin <input checked="" type="checkbox"/> FEMALE Féminin
RACE Race		MARITAL STATUS État Civil		RELIGION Culte
CAUCASOID Caucasique		SINGLE Célibataire		PROTESTANT Protestant
NEGROID Négréide		MARRIED Marié		CATHOLIC Catholique
<input checked="" type="checkbox"/> OTHER (Specify) Autre (Spécifier) (b)(6)		WIDOWED Veuf		JEWISH Juif
NAME OF NEXT OF KIN Nom du plus proche parent		RELATIONSHIP TO DECEASED Parenté du décédé avec le susdit		
STREET ADDRESS Domicile à (Rue)		CITY OF TOWN AND STATE (Include ZIP Code) Ville (Code postal compris)		
<input checked="" type="checkbox"/> MEDICAL STATEMENT Déclaration médicale				
CAUSE OF DEATH (Enter only one cause per line) Cause du décès (N'indiquer qu'une cause par ligne)				INTERVAL BETWEEN ONSET AND DEATH Intervalle entre l'attaque et le décès
DISEASE OR CONDITION DIRECTLY LEADING TO DEATH Maladie ou condition directement responsable de la mort. <i>Synaprel wound to mother heading to demise of child 1209 AM</i>				<i>inhabited - epinephrine - atropine - central line</i>
ANTECEDENT CAUSES Symptômes précurseurs de la mort.	MORBID CONDITION, IF ANY, LEADING TO PRIMARY CAUSE Condition morbide, s'il y a lieu, menant à la cause primaire			
	UNDERLYING CAUSE, IF ANY, GIVING RISE TO PRIMARY CAUSE Raison fondamentale, s'il y a lieu, ayant suscité la cause primaire			
OTHER SIGNIFICANT CONDITIONS Autres conditions significatives				
MODE OF DEATH Condition de décès	AUTOPSY PERFORMED Autopsie effectuée <input type="checkbox"/> YES OUI <input type="checkbox"/> NO NON		CIRCUMSTANCES SURROUNDING DEATH DUE TO EXTERNAL CAUSES Circonstances de la mort suscitées par des causes extérieures	
NATURAL Mort naturelle	MAJOR FINDINGS OF AUTOPSY Conclusions principales de l'autopsie			
ACCIDENT Mort accidentelle				
SUICIDE Suicide	NAME OF PATHOLOGIST Nom du pathologiste			
HOMICIDE Homicide	SIGNATURE Signature	DATE Date	AVIATION ACCIDENT Accident à Avion <input type="checkbox"/> YES OUI <input type="checkbox"/> NO NON	
DATE OF DEATH (Hour, day, month, year) Date de décès (l'heure, le jour, le mois, l'année)		PLACE OF DEATH Lieu de décès		
09 Nov 06 10009		COB Speicher		
I HAVE VIEWED THE REMAINS OF THE DECEASED AND DEATH OCCURRED AT THE TIME INDICATED AND FROM THE CAUSES AS STATED ABOVE. J'ai examiné les restes mortels du défunt et je conclus que le décès est survenu à l'heure indiquée et à la suite des causes énumérées ci-dessus.				
NAME OF MEDICAL OFFICER Nom du médecin militaire ou du médecin sanitaire		TITLE OR DEGREE Titre ou diplôme		
GRADE Grade	INSTALLATION OR ADDRESS Installation ou adresse			
	COB Speicher			
DATE Date	SIGNATURE Signature			
8 Nov 2006	(b)(3)(b)(6) My MD			
¹ State disease, injury or complication which caused death. (Specify nature of disease, injury or complication which caused death.) ² State conditions contributing to the death, but not related to the disease or condition causing death. (Specify nature of conditions contributing to the death, but not related to the disease or condition causing death.) ¹ Préciser la nature de la maladie, de la blessure ou de la complication qui a contribué à la mort, mais non la manière de mourir, telle qu'un arrêt de coeur, etc. ² Préciser la condition qui a contribué à la mort, mais n'ayant aucun rapport avec la maladie ou la condition qui a provoqué la mort.				

foreign language

foreign language, (b)(6)

Already Reviewed and Redacted for Release

foreign language

STATEMENT OF RECOGNITION OF DECEASED

PRIVACY ACT STATEMENT

AUTHORITY: 10 USC Sections 1481 through 1488, EO 9397, Nov. 1943 (SSN).

PURPOSE AND USE: This form is used to establish initial identification of deceased personnel.

DISCLOSURE: Personal information provided on this form is given on a voluntary basis. Failure to provide this information, however, may result in improper identification of the deceased person and person making visual identification.

1. TENTATIVELY IDENTIFIED DECEDENT

a. NAME BTB	(b)(6)	b. RANK CIV-LN	c. SSN N/A
d. ORGANIZATION N/A	e. SERVICE N/A		

2. I HAVE PERSONALLY VIEWED THE REMAINS TENTATIVELY IDENTIFIED ABOVE. RECOGNITION IS BASED ON THE FOLLOWING.

a. SEX Female	b. APPROXIMATE AGE (Years) 0	c. APPROXIMATE HEIGHT	d. RACE (b)(6)
e. HAIR COLOR (If brown, indicate light or dark, as applicable) Black	f. BUILD/MUSCULARITY (Slender, medium, heavy)		
g. IDENTIFYING MARKS (Fully describe by type and location ALL known scars, tattoos, birthmarks, amputations or other body markings to support the identification.)			
h. REMARKS Infant was born deceased due to A shrapnel wound to her mother.			

3. DETAILS OF VIEWING

a. DATE (YYYYMMDD) 20061108	b. TIME 1400	c. PLACE MACP-5 COB SPEICHER, TIKRIT 379th CSIT (Photo)
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4. PERSON MAKING VISUAL IDENTIFICATION

a. NAME (Last, First, Middle Initial) (b)(6)	b. RANK N/A	c. SSN N/A
d. ORGANIZATION CIV - Iraqi	e. SIGNATURE	f. DATE SIGNED (YYYYMMDD) 20061108
g. RELATIONSHIP TO DECEASED (CDR, ISG, Friend, Relative, etc.) Father	h. LENGTH OF TIME YOU KNEW DECEASED (Number of months or years)	

5. WITNESS

I certify that the individual identified in Item 4 has viewed the remains in my presence, and that to the best of my knowledge and belief the above statements are true.

a. NAME (Last, First, Middle Initial) (b)(6)	b. RANK SFC	c. TITLE Mortuary Affairs Spec.
d. ORGANIZATION 11th AM Co (MA)	(b)(6)	f. DATE SIGNED (YYYYMMDD) 20061108

DD FORM 565, JUL 1998 (EG)

PREVIOUS EDITION MAY BE USED.

USAPA V1.00

