



**U.S. Department of Justice
U.S. Attorney's Office
Western District of Texas**

Robert Pitman, U.S. Attorney

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STATEMENT REGARDING UNITED STATES VS. TREY SCOTT ATWATER

United States Attorney Robert Pitman announced that in Midland today, the United States filed a motion to dismiss a criminal complaint charging Sgt. Trey Atwater with attempting to board an aircraft with an explosive device. According to the motion, after a thorough investigation by the Federal Bureau of Investigation, there is not sufficient evidence to prove that Atwater knew that he was carrying explosives in his carry-on bag.

Atwater was arrested on December 31, 2011, at the Midland International Airport after the discovery of two blocks of C-4 explosives, weighing approximately 2.5 pounds, lodged between padding in the lumbar area of the backpack he was carrying.

According to the motion, the FBI's investigation revealed the following: Atwater was a demolitions expert for the U.S. Army and served three tours in Afghanistan with a Special Forces Group. He returned to Ft. Bragg, N.C., after his last tour in late April or early May 2011. He had traveled from there to Midland with his family for the holidays and was returning to North Carolina. As a demolitions expert, he routinely carried quantities of C-4 explosives in his backpack in Afghanistan. The FBI confirmed that it was, in fact, common for soldiers in Atwater's unit to carry at least two blocks of C-4 while on missions. Atwater stated that, upon his return home, he stored the backpack in his garage. He stated he did not know the explosives were in the pack when he used it to travel to Midland. The C-4 found in Atwater's pack came from a lot number that was exclusively shipped to Afghanistan and Iraq. Consistent with Atwater's account, the FBI concluded that the C-4 was, in fact, in Atwater's pack when he traveled from North Carolina to Midland. The investigation has developed no evidence that Atwater knowingly possessed the explosives on December 31, 2011, at the Midland airport or that he intended to board an aircraft in possession of explosives. The investigation corroborated his claims that the C-4 had been placed in his pack in Afghanistan, and he had forgotten that they were there. Atwater's work record shows that he has been an above-average soldier in many respects, with "excellent" ratings in most individual categories, and recent overall ratings of "among the best." Nothing in his records raises questions about his stability.

The motion further states that under the standards applicable to this prosecution, the Government believes it cannot be proved that Atwater committed a criminal offense on December 31, 2011, and that, in the interest of justice, the complaint against him should be dismissed. It should be noted that ending this prosecution will not necessarily resolve the matter for Sgt. Atwater. He will likely face administrative or other measures by the U.S. Army.

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