

# United States District Court

WESTERN DISTRICT OF TEXAS

**FILED**

JAN 3 2012

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY [Signature]  
DEPUTY CLERK

UNITED STATES OF AMERICA

V.

TREY S. ATWATER

**CRIMINAL COMPLAINT**

CASE NUMBER: MO-17-

M-001

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about December 31, 2011 in Midland county, in the Western District of Texas, defendant(s) did, (Trace Statutory Language of Offense)

**when attempting to get on an aircraft intended for operation in air transportation and intrastate air transportation from Midland to Dallas, TX, have on and about him a quantity of C-4 explosives**

in violation of Title 49, United States Code, Section(s) 46505(b)(3)

I further state that I am a(n) Special Agent, FBI and that this complaint is based on the following facts:

Official Title

See attached affidavit, incorporated herein as if set forth in full

A true copy of the original, I certify.  
Clerk, U. S. District Court

By [Signature]  
Deputy

Continued on the attached Sheet and made a part hereof:

Yes  No

[Signature]  
Signature of Complainant

Sworn before me and subscribed in my presence,

December 31, 2011  
Date

at Midland, Texas  
City and State

The Hon. David Counts, U.S. Magistrate  
Name and Title of Judicial Officer

[Signature]  
Signature of Judicial Officer

AFFIDAVIT

1  
2 I, Cory A. Richardson, Special Agent of the Federal Bureau of Investigation (FBI), being  
3 duly sworn, do hereby depose and state:

4 I have been employed by as a Special Agent with the FBI for approximately twelve years.  
5 Prior to my employment with the FBI, I was employed as a Patrolman for the Amarillo, Texas  
6 Police Department for approximately five years. As an FBI agent, I am charged with  
7 investigating various violations of federal statutes including crimes aboard aircraft.

8 The information contained herein is based upon my own investigation as well as  
9 information supplied to me by other FBI agents and law enforcement officers of the Midland  
10 Texas Police Department. I have not included all facts known to me concerning this matter, but  
11 only facts necessary to set forth probable cause.

12 This affidavit is in support of a Federal Arrest Warrant for **Trey Scott Atwater, of Hope**  
13 **Mills, NC**, for a violation of 49 U.S.C. § 46505(b)(3). This statute prohibits persons from getting  
14 on, or attempting to get on, an aircraft intended for operation in intrastate air transportation while  
15 having an explosive on or about their person. Facts supporting this allegation are as follows.

16 At approximately 9:31 A.M. on Saturday 12/31/2011, Midland FBI Special Agent (SA)  
17 John W. Childress received a telephonic complaint from the FBI Communications Center of the  
18 El Paso field office. SA Childress contacted the reporting Officer from Midland Police  
19 Department (MPD), Elias Hernandez, who stated that Transportation Safety Administration  
20 (TSA) personnel at Midland International Airport (MAF) had located possible explosives in the  
21 carry-on baggage of a ticketed passenger on American Airlines flight 3283 from MAF to Dallas-

22 Ft. Worth International Airport. The passenger, TREY SCOTT ATWATER was removed from  
23 the screening area and was being detained at the MPD office located at MAF.

24 Midland Police Department Bomb Squad personnel had recovered the explosives, which  
25 were identified by their military markings as C-4. MPD personnel who have had training with  
26 explosives confirmed that the material removed from ATWATER's luggage was consistent with  
27 the appearance of C-4, and took custody of it to be placed into secure storage at the MPD range.

28 SA Childress and I conducted an interview with ATWATER. ATWATER waived his  
29 Miranda rights and agreed to speak to with us. ATWATER stated that he had been deployed  
30 with the 7<sup>th</sup> Special Forces Group and had returned from his third deployment in Afghanistan in  
31 April of 2011. ATWATER explained that his military specialty was as a demolitions expert.

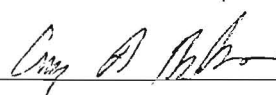
32 ATWATER further explained that his Special Forces Team had a Special Operating  
33 Procedure (SOP) which was to carry at least two blocks of C-4 on any operation. ATWATER  
34 said that he usually carried much more due to his specialty. When ATWATER left Afghanistan,  
35 he said he packed his bags, to include the bag where explosives were found, and had no  
36 recollection of there being any C-4 contained therein. He said he had not used the bag since  
37 returning from his deployment in Afghanistan and it had been in his garage. He further  
38 explained that he had not utilized any C-4 in any training since his return. As he prepared to  
39 travel to Midland, TX, for the holidays he said he grabbed the bag to use as a carry-on and put  
40 children's items in. He said he did not notice any explosives in the main compartment of the  
41 bag. He said he was surprised that the C-4 was in the bag when it was located at MAF.

42 I later learned from TSA, however, that ATWATER had been also been detained by  
43 security personnel on December 24, 2011 at the airport in Fayetteville, N.C., when he was flying  
44 out en route to Midland, TX. TSA screeners had located a military smoke grenade in his bag.  
45 The smoke grenade was confiscated, and he was admonished before being allowed to continue  
46 on his trip.

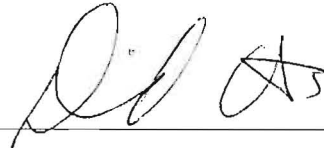
47 When I asked him about the December 24 Fayetteville incident after TSA informed me of  
48 it, ATWATER acknowledged that it had occurred, but said he had forgotten to mention it to us  
49 during our initial interview.

50 Based on the foregoing information, there is probable cause to believe that **TREY**  
51 **SCOTT ATWATER, of Hope Mills, NC**, when attempting to get on an aircraft in, or intended  
52 for operation in, air transportation and intrastate air transportation, had on or about his person  
53 explosives, in violation of Title 49, United States Code, Section 46505(b)(3).

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Cory A. Richardson  
Special Agent  
Federal Bureau of Investigation  
Midland, Texas

Subscribed and sworn to before me this 31<sup>st</sup> day of December, 2011.

  
\_\_\_\_\_  
U.S. Magistrate

# United States District Court

WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

v.

TREY S. ATWATER

## WARRANT FOR ARREST

CASE NUMBER: MO-17-

M - 001

To: The United States Marshal  
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest TREY S. ATWATER

Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

Indictment     Information     Complaint     Order of court     Violation Notice     Probation Violation Petition

charging him or her with (brief description of offense)

**attempting to board a commercial aircraft with explosives on and about his person**

in violation of Title 49, United States Code, Section(s) 46505(b)(3)

The Hon. David Counts

Name of Issuing Officer

Signature of Issuing Officer

U.S. Magistrate Judge

Title of Issuing Officer

December 31, 2011, in Midland, Texas

Date and Location

A true copy of the original, I certify.  
Clerk, U. S. District Court

By [Signature]  
Deputy

Bail fixed at \$ \_\_\_\_\_ by \_\_\_\_\_

Name of Judicial Officer

### RETURN

This warrant was received and executed with the arrest of the above-named defendant at Midland, TX

Date Received <u>12/31/2011</u>	Name and Title of Arresting Officer <u>Cory A. Richardson</u> <u>Special Agent</u>	Signature of Arresting Officer <u>[Signature]</u>
Date of Arrest <u>12/31/2011</u>		