

VERMONT PARDON APPLICATION
(This form must be completed by all pardon applicants.)

Applications must be typewritten or clearly printed. All questions must be answered, if applicable; if not, indicate by N/A (not applicable). If the space provided is not sufficient for complete answers, or if you wish to furnish additional information, attach sheets and number answers to correspond with questions.

This application must be signed in the presence of a notary public.

1. Full Name: TODD ALLEN BRUNELLE
2. Address: [REDACTED]
3. Telephone #: [REDACTED]
4. Social Security #: [REDACTED]
5. Date of Birth: July 28, 1966
6. Place of Birth: Burlington, Vermont
7. Male/Female: Male
8. Marital Status: Married
9. Number of Children: 2
- Ages: 14, 18

10. For every conviction you would like to have considered for a pardon, provide the following (attach a separate sheet if more space is needed):

a. Date of conviction: July 22, 1992 Felony or misdemeanor: Misdemeanor

County of conviction: Chittenden Court Docket No.: 2290-6-92 Cncr

Criminal offense: 13 V.S.A. Section 1023 --- Simple assault, Domestic

Sentence (amount of fine and/or jail time): 4 months to 12 months, all suspended, probation, \$10 surcharge, complete DAEP, abide by Family Court orders

b. Date of conviction: _____ Felony or misdemeanor: _____

County of conviction: _____ Court Docket No.: _____

Criminal offense: _____

Sentence (amount of fine and/or jail time): _____

c. Date of conviction: _____ Felony or misdemeanor: _____

County of conviction: _____ Court Docket No.: _____

Criminal offense: _____

Sentence (amount of fine and/or jail time): _____

11. Please describe the circumstances of each offense and conviction for which a pardon is sought (attach a separate sheet if more space is needed).

SEE ATTACHED ADDENDUM A

12. Have you requested a pardon before? Yes If yes, when? April 16, 2009

13. Why are you requesting this pardon: Employment X Entry into Service X

Other (explain) I would like to re-enter the Vermont Army National Guard

14. Please briefly describe the reasons for this pardon request. A lengthier explanation and supporting documentation may be attached.

SEE ATTACHED ADDENDUM B

EDUCATION AND TRAINING

15. Highest Grade Completed: 12 16. Name of School: Winooski High School

MILITARY SERVICE

17. Branch of Service: Vermont Army National Guard

18. Service Number: JB006 19. Type of Discharge: Honorable

20. Dates of Active Duty: From November 15, 2004 To December 16, 2005

EMPLOYMENT

21. Present Place of Employment: IBM

22. Address and Telephone Number: 1000 River Street, Essex Junction, Vermont 802/769-0111

23. How Long? 10 months 24. Kind of Work? Tool operator/technician

25. Previous Employment and Dates: SEE ATTACHED ADDENDUM C

GENERAL INFORMATION

26. Have you been convicted of any offenses (including motor vehicle violations) in Vermont or another state SINCE the conviction for which you are requesting a pardon? YES NO X

27. If the answer to number 26 above is YES, provide the following details for each offense: the date of conviction, the offense and sentence imposed, and the State and Court in which convicted (attach a separate sheet if more space is needed).

Not applicable

28. Have you ever been arrested by federal authorities, or by any other state or local authority **OTHER THAN IN VERMONT?** YES _____ NO X

29. If the answer to number 28 above is YES, provide the following details for each arrest: the date of arrest, the offense and sentence imposed, and the State and Court in which convicted (attach a separate sheet if more space is needed).

Not applicable

30. Do you have a specific and compelling need for a pardon? YES X NO _____

31. What is that need? Re-enter Army National Guard, support troops, fulfill retirement

32. Petitioners must demonstrate a substantial period of good citizenship and an exemplary life since conviction. Please indicate examples of constructive conduct and specific achievements, if any (attach a separate sheet if more space is needed).

SEE ATTACHED ADDENDUM D

33. How will a pardon substantially aid you in improving your life (attach a separate sheet if more space is needed)?

SEE ATTACHED ADDENDUM E

34. How will a pardon benefit society? _____

SEE ATTACHED ADDENDUM F

REFERENCES

35. Please provide four letters specifically in support of your pardon application, from persons other than you or members of your family, attesting to your good character and reputation. Please list the names of such individuals below.

<u>Name</u>	<u>Address</u>	<u>Telephone #</u>	<u>Relationship</u>
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SEE ATTACHED ADDENDUM G

36. I hereby certify that the information submitted in this application is true, accurate, and complete to the best of my knowledge. By submitting this application, I understand that I am agreeing to release of my motor vehicle record and consenting to public release of my name should a pardon be issued.

Wood H. Smith
Signature (must be signed in the presence of a notary public)

September 16, 2011
Date

STATE OF VERMONT)
COUNTY OF CHITTENDEN) ss.

Sworn to before me this 16th day of September, 2011.

Notary Public: Graydon Wilson

GRAYDON WILSON

My Commission Expires: February 10, 2015

MAIL YOUR COMPLETED APPLICATION TO: Office of the Governor, 109 State Street, The Pavilion
Montpelier, VT 05609-0101

TO BE DEEMED COMPLETE, YOUR APPLICATION MUST INCLUDE:

1. a response to each question,
2. at least four letters of reference specifically supporting your pardon application, and
3. signature before a notary public.

TODD A. BRUNELLE APPLICATION FOR PARDON

ADDENDUM A

11. Please describe the circumstances of each offense and conviction for which a pardon is sought (attach a separate sheet if more space is needed).

On Friday, June 19, 1992, my wife and I had a disagreement about her plans to attend a neighborhood pig roast that was being hosted by a neighbor whom I thought Lori had become interested in. I did not want her to go. We did not resolve the matter and I told her that I thought that we should separate. I left our home that evening and returned the next morning to collect some of my personal belongings.

When I arrived, Lori was talking on the telephone with a friend, Maria Jackson. While I gathered my things, Lori continued talking with Maria. As I was about to leave, Lori put down the telephone and came over to me, wrapping her arms around me. She kept saying that I should not go and that we could work things out. I reached back around me and, holding her wrists, took her arms from around me and then kept her at a distance away from me. We talked to one another all the while, sometimes loudly.

Maria was able to hear what was going on. I do not know whether she could understand all of the words that were said, but it seems nonetheless that she recognized that a loud disagreement was occurring. She disconnected the call and then called the Colchester Police Department.

Three police officers arrived. Two of them took Lori back into the bedroom while the third officer kept me in the living room. After about forty-five minutes, the officers who had been back in the bedroom with Lori came out and arrested me. I was charged with simple assault/domestic abuse.

I was processed and then released after posting a \$250 bond. My first court appearance was two days later, on Monday, June 22, 1992. At that time, I learned that I was also charged with unlawful mischief. I entered a plea of not guilty.

I next appeared in court one month later, on July 22, 1992. Lori was there that day and said that she would not testify against me. My attorney, whom I met for the first time that day, told me that it did not matter, that Lori had made statements that could be used against me, that my having used my hands to remove Lori's arms from around me would constitute assault and that I would be convicted. He also said that, if I would plead nolo contendere to the simple assault/domestic charge, I would get probation, would have to attend anger management classes and that, afterwards, the entire record would disappear. Lori was present during the entire while that my attorney told me this.

Based upon what my attorney had told me, a plea agreement was made. I pled nolo contendere to the simple assault/domestic abuse charge and the unlawful mischief charge was dismissed. I was sentenced to four-to-twelve months in jail, all of which was suspended, placed on probation and required to attend the anger management classes, just as my attorney had said would occur. The anger management classes were completed the following spring and I was discharged from probation on April 20, 1993.

Current Case Docket Information

Court record: 18657

Vermont Superior Court

Chittenden Criminal Division

Docket No.	2290-6-92 Cncr	State vs. Brunelle, Todd A.	2290-6-92 Cncr
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Prosecutor:	Defendant:	Todd A. Brunelle
Motions pdg: 1	DOB:	07/28/1966
Bail set:	POB:	Burlington, VT
Incarcerated:	Atty:	Paul D. Jarvis
Conditions:	Aliases:	
Case Status:	Address:	
Disposed		
Next Hearing:		

Dspt	Docket No.	Ct.	Statute	F/M/O
1	2290-6-92 Cncr	1	13 1023	mis 07/22/92 Plea nolo contendr
	SIMPLE ASSAULT - DOMESTIC			
2	2291-6-92 Cncr	1	13 3701	mis 07/22/92 Dismissed by state
	UNLAWFUL MISCHIEF			

06/20/92

411351 - bailpost

\$250.00 cash posted by DON'T USE Brunelle. Custody status: released.

06/22/92

411330 - cfile - status set to apar

Information and Affidavit filed on 2 disputes.

411331 - charge

Dispute 1 for Docket No. 2290-6-92 Cncr Count #1, SIMPLE ASSAULT - DOMESTIC, Misdemeanor, 13 V.S.A. 1023. Alleged offense date: 06/20/92. Arrest/citation date: 06/20/92 Colchester PD.

411332 - pcfound

Probable Cause found by Judge George T. Costes on disputes 1-2.

411333 - hrgset

Arraignment set for 06/22/92 at 10:30 AM.

411334 - charge

Dispute 2 for Docket No. 2291-6-92 Cncr Count #1, UNLAWFUL MISCHIEF, Misdemeanor, 13 V.S.A. 3701. Alleged offense date: 06/20/92. Arrest/citation date: 06/20/92 Colchester PD.

411415 - hrgheld

Arraignment held by George T. Costes. (TAPE).

411418 - rule5

Copy of Affidavit and Information given to defendant. 24 hour rule waived.

411419 - plea - status set to apttr

Reading of Information waived. Defendant pleads not guilty on disputes 1-2. Pre-trial discovery order issued.

411420 - hrgset

Calendar Call set for 07/22/92 at 09:30 AM.

411421 - hrgset

Attorney or Appear set for 06/29/92 at 08:30 AM.

411424 - roc

Defendant released on conditions on disputes 1-2 per George T. Costes. Conditions 1-3,14,17 imposed; No.14: not to associate with Lauri Brunelle, No.14: not to harass the same; Remain away from 52 Heineberg Drive in Colchester, Vt. except to retrieve belongings in the company of a law enforcement officer.

06/23/92

411736 - *cstat* - status set to *aptr*
Case status changed to Active - Pretrial.

06/29/92 415528 - *hrgheld*
Attorney or Appear held by George T. Costes. (TAPE).
415529 - *jsorder*
Judicial Summons ordered by Judge George T. Costes.

07/09/92 420494 - *hrqset* - status set to *ijs*
Attorney or Appear set for 07/20/92 at 08:30 AM.

07/14/92 423394 - *jsissue*
Judicial Summons issued, to be served by Public Mail.

07/20/92 426048 - *hrgheld*
Attorney or Appear held by Rita Flynn Villa. (TAPE).
426049 - *aworder*
Arrest warrant ordered on disputes 1-2 by Rita Flynn Villa
for failure to appear. \$200.00 bail set.
426636 - *hrqcan*
Calendar Call scheduled for 07/22/92 cancelled.
426637 - *cstat* - status set to *iaw*
Case status changed to Inactive - Arrest Warrant.

07/21/92 427282 - *awissue*
Arrest warrant issued by Judge Linda Levitt, Warrant No. 5708
assigned.

07/22/92 427509 - *awdisp*
Arrest warrant no. 5708 withdrawn: defendant appeared.
427510 - *pleafile*
Plea agreement filed entered on the record.
427512 - *chgdisp*
Dispute 2: Dismissed by state.
427513 - *cop*
Defendant pleads nolo contendere on dispute 1. Plea agreement
filed. Judge Linda Levitt accepts plea after finding it to be
voluntary and made with knowledge and understanding of the
consequences and after a knowing waiver of constitutional rights.
Plea found to have a factual basis. Adjudication of guilty entered.

427514 - *sentence*
Sentence on dispute 1: to serve 4 month(s) to 12 month(s) all
suspended and defendant placed on probation under standard conditions
and special conditions 8,14. No.8: to pay fine of \$910 surcharge.
No. 14: Attend and complete DABP program; Abide by Family Court
orders; Probation warrant issued. \$10.00 surcharge assessed.
427520 - *chgdisp*
Dispute 1: Plea nolo contendere. Judgment of Guilty entered by
Judge Linda Levitt on dispute 1.
427521 - *close* - status set to *dis*
Case closed.
427526 - *bailret*

427546 - *awdisp*
Arrest warrant no. 5708 withdrawn: defendant appeared.

04/20/93 580391 - *entorder*
Entry Order: SATISFACTORY DISCHARGE FROM PROBATION ON DISPUTE
1.

02/17/09 7140505 - *motion*
Motion to Expunge Record filed by Defendant Todd A. Brunelle
on disputes 1-2. Motion to Expunge Record given to judge.

02/23/09 7147648 - *motdisp*
Motion 1 (to Expunge Record) denied by Geoffrey W. Crawford.
The court has no authority to expunge an adult conviction. This would
appear to be a highly appropriate case for a governor's pardon. I
recommend that you contact the governor's office concerning this
matter.

10/27/09 7457471 - *motion*
Motion to Clarify and Reconsider Decision filed by Defendant

Todd A. Brunelle on disputes 1-2. Motion to Clarify and Reconsider Decision given to judge.

11/10/09

7459093 - *motdisp*

Motion 2 (to Clarify and Reconsider Decision) denied by Linda Levitt. I agree with Judge Crawford- the Court has no authority to expunge an assault conviction from your record.

12/04/09

7487235 - *couappr*

Appearance entered by Paul D. Jarvis.

7487238 - *motion*

Motion to Seal (Stipulation) filed by Attorney Paul D. Jarvis for Defendant Todd A. Brunelle on disputes 1-2. Motion to Seal (Stipulation) given to judge.

12/08/09

7499013 - *motdisp*

Motion 1 (to Expunge Record) denied by Linda Levitt. The Courts are not sealing convictions. Ask for a governor's pardon.

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TODD ALLEN BRUNELLE

Unit No. Circuit

Docket No.: 2290-6-92 CNCR

2 Chittenden

Incident No.: 92-04407

Sched Date of Appear: 06/22/92

IMV Use

DoB: 09/28/66 Age: 25 PoB: BURLINGTON, VT

Date of Offense | Date Arr/Cit |

Department

Operator's License No. - St | Accident

Injury

06/20/92 | 06/20/92 | 0405 DEPAR

Property Damage

SIMPLE ASSAULT - DOMESTIC

Count 1 of 2 : 13 V.S.A 1023

Misdemeanor

INFORMATION BY STATE'S ATTORNEY

State of Vermont Chittenden County, SS.

BY THE AUTHORITY OF THE STATE OF VERMONT, WILLIAM H. SORRELL

State's Attorney for said County, upon oath of office charges:

That TODD ALLEN BRUNELLE of COLCHESTER

at COLCHESTER in this County and Territorial Unit

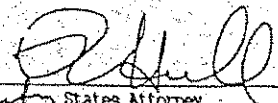
on the 20 day of June 1992

was then and there a person who recklessly caused bodily injury to another, to-wit: caused bodily injury to Lori Brunelle, by grabbing her neck, in violation of 13 VSA §1023(a)(1).

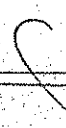
Penalty: Not more than one year or not more than \$1,000 or both.

and against the peace and dignity of the state.

Dated: 6-22-92


Deputy States Attorney

This information has been presented to me and I have found probable cause,
this day of 6/22 1992


District Judge

AFFIDAVIT

STATE OF VERMONT
Chittenden County S.S.

NOW COMES DONALD A. DEMAR, affiant(s), being duly sworn and on oath, deposes and says he has probable cause to believe that TODD A. BRUNELLE has committed the offense(s) of SIMPLE ASSAULT/DOMESTIC ABUSE, a violation of Title 13, Vermont Statutes Annotated §1023.

1. On June 20, 1992, at approximately 0917 hours, this affiant was dispatched to [REDACTED] for a report of a domestic disturbance taking place.
2. Upon arrival, this affiant met with the female subject involved, Lori Brunelle (d.o.b 06/22/69). In a verbal and later written statement obtained from Mrs. Brunelle she stated that yesterday 06/19/92 her husband Todd Brunelle (d.o.b 07/28/66) had moved out. Lori advised that on the above date and time Todd returned to the residence and started beating on the front door. Lori continued to advise that she feared for her safety and had installed new locks on the doors. Lori stated that upon Todd finding this out, he kicked the door in and entered the residence.
3. At this time, this affiant observed the inside casing of the front door of the residence to be removed and splinters of wood around the outside of same, indicating that someone had forced their way into the residence.
4. Lori continued to advise that while this was happening she had been on the phone with a friend, Maria, and had asked her to call the police. Lori advised that upon Todd entering the residence he (Todd) said that he was taking everything to which she replied, no your not, get your clothes and get out. Todd then said, that she (Lori) was leaving not him and then Todd grabbed her, shook her and slammed her against the door. Lori advised that this hurt her back and caused her pain and suffering. Lori advised that upon this affiants arrival, Todd had her up against the sink, pinching her by the neck and that this caused her pain. This affiant observed some red marks in the throat area of Mrs. Brunelle.
5. Lori stated that there has been a past history of physical and mental abuse involving Todd and referred to an incident that occurred in May of 1991 were Todd had been arrested.
6. At this time, Todd A. Brunelle (d.o.b 07/28/66) was placed into custody for Simple Assault/Domestic Abuse and transported to the Colchester Police Department and then later lodged at the Chittenden Community Correctional Center to prevent any further abuse upon the victim, Lori Brunelle.

Subscribed and sworn to before me on
this 20th day of June, 1992.

(Notary Public)

(Judicial Officer)

(Affiant)

(Date)

TODD A. BRUNELLE APPLICATION FOR PARDON

ADDENDUM B

14. Please briefly describe the reasons for this pardon request. A lengthier explanation and supporting documentation may be attached.

The conviction resulted in my being discharged from the Vermont Army National Guard. I wish to re-enlist, serve my country and support my fellow members of the Guard, re-gain my employment there and complete the requirements for my retirement.

At the time of my conviction, my attorney had told me and my wife, Lori, that the record of my conviction would disappear after I completed the anger management classes. I did not know the details of how or why this would occur and simply accepted his advice to me.

In November 1996, I re-enlisted with the Vermont Army National Guard as a Private First Class. In April 2000, I became a full-time employee of the Guard and was promoted to Staff Sergeant. In 2004, I was promoted to Sergeant First Class and, in November 2004, was deployed to Kuwait, returning in December 2005. In 2008, I was notified that my unit would be deployed to Afghanistan.

In connection with the planned deployment, administrative personnel with the Guard undertook a police record check. In October 2008, the Guard was advised of my 1992 conviction for simple assault/domestic abuse. On January 27, 2009, a counselling form was provided to me by the Guard that said that the 1992 conviction rendered me ineligible to possess a firearm in consequence of Army regulation AR 600-20 and 18 U.S.C. § 922(g), known as the Lautenberg Amendment. It also stated that the conviction would have to be expunged, set aside or pardoned and that, if none of these occurred, I would be discharged on January 31, 2010.

The 1992 conviction having re-surfaced was a surprise to me. I disclosed it when I re-enlisted in the Guard and nobody ever said anything about it to me, which led me to believe that it had disappeared, just as my attorney had said it would. Having been told that expungement was one of the options, I hired an attorney to do that. A motion to expunge the record was filed on February 17, 2009. The motion was denied on February 23, 2009, accompanied by Judge Geoffrey Crawford's notation, "This would appear to be a highly appropriate case for a governor's pardon."

A pardon application was submitted to Governor Jim Douglas on April 16, 2009. The application was denied on October 13, 2009 but without a statement of reasons.

A motion seeking reconsideration of the expungement motion was filed on October 27, 2009 but was denied on November 10, 2009. A motion to seal the record was then filed on December 4, 2009 and was denied on December 8, 2009 with a notation by Judge Linda Levitt, "The courts are not sealing convictions. Ask for a governor's pardon."

A habeas corpus petition was then filed in the Superior Court, Chittenden Civil Unit on December 22, 2009. The petition was accompanied by a consent by the Chittenden County State's Attorney, T.J. Donovan. Nonetheless, the petition was denied on January 29, 2010. In his written reasons, Judge Matthew Katz stated,

Petitioner is not without a remedy. The Vermont Constitution permits the Governor to pardon one in the position petitioner. Vt. Const. ch. II, § 20. It is the essence of pardons that they are granted to the guilty. Despite guilt, other considerations such as mercy, subsequent events, collateral consequences are the very purpose for which pardoning power exists. *Doe v. Salmon*, 135 Vt. 443, 445 (1977) ("[Pardoning] is an official act based upon public considerations as well as an act of grace."). It is a judgment to be made. But it is a judgment to be made by the legally empowered agency of government, in this case not the courts.

In connection with a newspaper article in the *Burlington Free Press*, Governor Douglas was asked whether he would re-consider a pardon application that he had previously denied. He stated that it was possible but not likely, adding that "it doesn't mean it can't be looked at again by a different governor." On June 25, 2010, Governor Douglas was asked about my case specifically, but said that it was unlikely.

Governor Douglas having suggested that I might submit a new pardon application to a different governor, and Governor Shumlin having been elected in November 2010, I hired a new attorney, Richard Cassidy, to assist me.

Copies of the pertinent documentary materials reflecting the above are attached.

POLICE RECORD CHECK				1. DATE OF REQUEST (YYYYMMDD)		OMB No. 0704-0007 OMB approval expires Mar 31, 2010	
<p>The public reporting burden for this collection of information is estimated to average 27 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services Directorate (0704-0007). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p> <p>PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO ADDRESS SHOWN AT BOTTOM OF FORM.</p>							
SECTION I - (To be completed by Recruiting Service)							
2. NAME OF APPLICANT (Last, First, Middle Name(s), Alias)			3. SEX		4. PLACE OF BIRTH		
Brounelle Todd A			<input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE		a. CITY Burlington		b. COUNTY Colt
5. DATE OF BIRTH (YYYYMMDD) 1966-07-28			6.a. RACIAL CATEGORY (X one or more)		b. ETHNIC CATEGORY		c. STATE VT
			<input type="checkbox"/> (1) AMERICAN INDIAN/ALASKA NATIVE <input type="checkbox"/> (2) ASIAN <input type="checkbox"/> (3) BLACK OR AFRICAN AMERICAN		<input checked="" type="checkbox"/> (4) WHITE <input type="checkbox"/> (5) NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER		(1) HISPANIC OR LATINO (2) NOT HISPANIC OR LATINO
8. ADDRESS IN ADDRESSEE'S JURISDICTION (See "MAIL TO" block)						9. DATES RESIDED AT THIS ADDRESS	
a. NUMBER AND STREET (Include apartment no.)		b. CITY		c. STATE		d. ZIP CODE	
[REDACTED]		[REDACTED]		[REDACTED]		[REDACTED]	
10. PERSON MAKING THIS REQUEST						199710-01 Present	
a. NAME (Last, First, Middle Name(s))			b. RANK		c. SIGNATURE		d. TITLE
Boillard Cheryl A			SSG		[Signature]		[Signature]
SECTION II - (To be completed by Applicant)							
PRIVACY ACT STATEMENT							
<p>AUTHORITY: Title 10 United States Code, Sections 504, 505, 506, and 12102; E.O. 9397.</p> <p>PRINCIPAL PURPOSE: To determine eligibility of a prospective enlistee in the Armed Forces of the United States.</p> <p>ROUTINE USES: Information collected on this form may be released to law enforcement agencies engaged in the investigation or prosecution of a criminal act or the enforcement or implementation of a statute, rule, regulation or order; to any component of the Department of Justice for the purpose of representing the DoD.</p> <p>DISCLOSURE: Voluntary; however, failure of the applicant to complete Section II may result in refusal of enlistment in the Armed Forces of the United States.</p>							
<p>The data are for OFFICIAL USE ONLY and will be maintained and used in strict confidence in accordance with Federal law and regulations. Making a knowing and willful false statement on this DD Form 369 may be punishable by fine or imprisonment or both. All information provided by you, which possibly may reflect adversely on your past conduct and performance, may have an adverse impact on you in your military career in situations such as consideration for special assignment, security clearances, court martial and administrative proceedings, etc.</p>							
11. I HEREBY CONSENT TO RELEASE FROM YOUR FILES THE INFORMATION REQUESTED BELOW.					SIGNATURE [Signature]		
SECTION III - (To be completed by Police or Juvenile Agency)							
<p>The person described above, who claims to have resided at the address shown above, has applied for enlistment in the Armed Forces of the United States. Please furnish from your files the information relative to Section III below. A return envelope is provided for your convenience.</p>							
12. HAS THE APPLICANT A POLICE OR JUVENILE RECORD, TO INCLUDE MINOR TRAFFIC VIOLATIONS? (If YES, what was the offense or charge, date, disposition and sentence?)						<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
13. IS APPLICANT NOW UNDERGOING COURT ACTION OF ANY KIND? (If YES, give details.)						<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
THIS IS TO CERTIFY THAT THE ABOVE DATA AS CORRECTED ARE TRUE AND CORRECT ACCORDING TO THE RECORD ON FILE IN THIS OFFICE. THIS INFORMATION IS CONFIDENTIAL AND CANNOT BE USED IN ANY OTHER MANNER EXCEPT FOR OFFICIAL PURPOSES.							
14. DATE (YYYYMMDD)		15. TITLE			16. VERIFIED BY (Signature)		
[REDACTED]		[REDACTED]			[Signature]		
LAW ENFORCEMENT AGENCY MAIL TO:				RECRUITING AGENCY MAIL FROM:			
[REDACTED]				[REDACTED]			
[REDACTED]				[REDACTED]			
[REDACTED]				[REDACTED]			

WRI-3584043

COH 1745 19:09 14OCT08

SPOOF 0503 19:09 14OCT08

FR.VTII10000.VCICFC16.

Response To: 372

THIS RESPONSE IS BASED ON YOUR INQUIRY OF

PUR/C.ATN/709 VT ARMY NATIONAL GUARD.NAM/BRUNELLE,TODD.DOB/19660728

VERMONT CRIMINAL HISTORY

***** IDENTIFICATION *****

VERMONT SID # 140184

NAME: BRUNELLE, TODD ALLEN

DOB: 07/28/1966 POB CITY: BURLINGTON STATE/COUNTRY: VT

SEX: M RACE: W ETHNICITY: NON-HISPANIC US CITIZEN:

HEIGHT: 5'07" WEIGHT: 170 EYES: HAIR: BRO

FBI #: [REDACTED]

SOC SEC #: [REDACTED]

PRINTS NCIC: PO-PO-15-PO-17-DI-58-16-13-14 HENRY: 15 O 29 W --- OOO 17

PHOTO AVAILABLE? I 17 R --- IOI

DOB: 07/26/1966

ADDRESS: 33 MALLETTS BAY AVENUE COLCHESTER VT 05446

===== CYCLE 2 =====

TRACKING NUMBER: 1061573

----- ARREST -----

DATE OF ARREST:

ARRESTING AGENCY: COLCHESTER PD VT0040500

CASE NUMBER: 0405-92-04407

FINGERPRINTS: YES

CHARGE

CHARGE NLMBER: 01

CHARGE DESCRIPTION: ASSAULT-SIMPLE

STATUTE: 13V1023A1

SEVERITY: MISDEMEANOR

----- COURT ARRAIGNMENT -----

ARRAIGNMENT DATE: 06/22/1992

ARRAIGNMENT AGENCY: CHITTENDEN CO. DISTRICT COURT

DOCKET NUMBER: 2290-6-92

CHARGE

CHARGE NUMBER: 01

CHARGE DESCRIPTION: ASSAULT-SIMPLE

STATUTE: 13V1023A1

VERMONT ARMY NATIONAL GUARD
OFFICE OF THE JUDGE ADVOCATE
789 Vermont National Guard Road
Green Mountain Armory, Camp Johnson
Colchester, Vermont 05446-3099

NGVT-OSJA

5 January 2009

MEMORANDUM THRU

Commander, HQ, 86 IBCT (MTN), 7846 Williston Road, Williston, VT 05495
Commander, HQ, 186th BSB, 161 University Drive, Northfield, VT 05663

FOR Commander, HHC, 186th BSB, 161 University Drive, Northfield, VT 05663

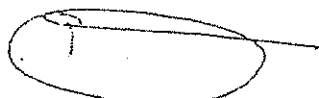
SUBJECT: Lautenberg Conviction- SFC Todd Brunelle [REDACTED]

1. SFC Brunelle was recently identified as possibly having been convicted of a crime that was believed to be in violation of DoD policy, AR 600-20 and 18 USC 922(g) ("Lautenberg conviction"). On 24 December 2008 SFC Brunelle provided me a copy of his court documents, which I have reviewed and determined that his conviction is, in fact, a Lautenberg conviction.
2. This was a 1992 simple assault conviction and for some reason it was not discovered until recently that it was a Lautenberg conviction. I have spoken with SFC Brunelle on the steps required for him to remain in the Vermont Army National Guard.
3. At this time, you should:
 - a. Counsel the soldier on the enclosed DA Form 4856.
 - b. Complete and file DA Form 5248-R, Report of Unfavorable Information for Security Determination, with the Vermont Army National Guard Security Office.
 - c. Return a copy of the above documents to me.
4. DA Form 268, Report to Suspend Favorable Personnel Actions (Flag), has been initiated by J1 and a copy is enclosed. SIDPERS will be updated by NGVT-J1-PI
5. If you have any questions, you can reach me at (802) 338-3160.

2 Encls

1. Police Records Check
2. Draft DA Form 4856
3. DA form 5248-R

cf: SGM Potvin, POMSO



ELLEN J. ABBOTT
LTC, JA
State Judge Advocate

REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is DCS, G-1.

SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI) BRUNELLE, TODD A.	2. SSN 009-60-5956	3. RANK SFC
4. <input type="checkbox"/> On active duty <input checked="" type="checkbox"/> Not on active duty <input type="checkbox"/> On ADT		5. ETS/ESA/MRD 20100131
6. UNIT ASSIGNED AND ARMY MAJOR COMMAND HHC 186 BSB, 86 IBCT (MTN)		7. STATION (Geographical location) NORTHFIELD, VT
8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER SFC RONDEAU (802) 338-3132		

9. THIS ACTION IS TO:

- ☒ Initiate a flag (Sections II and V only) ☐ Transfer a flag (Sections III and V only) ☐ Remove flag (Sections IV and V only)

SECTION II - INITIATE A FLAG

10. ☒ A FLAG IS INITIATED, EFFECTIVE 20090105 FOR THE FOLLOWING REASON:

<u>NON-TRANSFERABLE</u>	<u>TRANSFERABLE</u>
<input checked="" type="checkbox"/> Adverse action (A)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Elimination - field initiated (B)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Removal from selection list - field initiated (C)	
<input type="checkbox"/> Referred OER (D)	
<input type="checkbox"/> Security violation (E)	
<input type="checkbox"/> HQDA use only - elimination or removal from selection list (F)	

SECTION III - TRANSFER A FLAG

11. ☐ A FLAG IS TRANSFERRED FOR THE FOLLOWING REASON:

<input type="checkbox"/> Adverse action - HQDA directed reassignment (G)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Adverse action - punishment phase (H)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Supporting documents attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	

SECTION IV - REMOVE A FLAG

12. ☐ A FLAG IS REMOVED, EFFECTIVE _____ FOR THE FOLLOWING REASON:

<input type="checkbox"/> Case closed favorably (C)	<input type="checkbox"/> Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)
<input type="checkbox"/> Disciplinary action taken (D)	<input type="checkbox"/> Other final action (E)

SECTION V - AUTHENTICATION

DISTRIBUTION 1 - Unit Commander 1 - F&AO 1 - PSC 1 - Commander, gaining unit (transfer flag only)		
NAME, RANK, TITLE, AND ORGANIZATION JOHN C. BOYD, LTC, DCSPER	SIGNATURE <i>John C Boyd</i>	DATE 9 Apr 09

DEVELOPMENTAL COUNSELING FORM

For use of this form, see FM 22-100; the proponent agency is TRADOC

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, Departmental Regulations; 10 USC 3013, Secretary of the Army and E.O. 9397 (SSN)
PRINCIPAL PURPOSE: To assist leaders in conducting and recording counseling data pertaining to subordinates.
ROUTINE USES: For Subordinate leader development IAW FM 22-100. Leaders should use this form as necessary.
DISCLOSURE: Disclosure is voluntary.

PART I - ADMINISTRATIVE DATA

Name (Last, First, MI)	Rank/Grade	Social Security No.	Date of Counseling
Brunelle, Todd A.	SFC	[REDACTED]	
Organization	Name and Title of Counselor		
HHC 186th BSB 86 IBCT (MTN)			

PART II - BACKGROUND

Purpose of Counseling: (Leader states the reason for the counseling, e.g., performance/professional growth or event-oriented counseling, and includes the leader's facts and observations prior to the counseling.)

This is an event-oriented counseling arising from your 1992 conviction involving domestic violence as defined under AR 600-20.

PART III - SUMMARY OF COUNSELING

Complete this section during or immediately subsequent to counseling.

Key Points of Discussion:

The JAG has reviewed the court documents you provided, and your conviction is determined to be a violation of DoD policy, AR 600-20 and the 18 USC 922(g) ("Lautenberg conviction"). Since you are deemed to have a Lautenberg conviction: 1) you may not possess any firearms or ammunition; and (2) you must return any government issued firearm or ammunition to your commander or immediate supervisor; and (3) you must take steps to relinquish possession of any privately owned firearms or ammunition.

In order to remain in the Vermont Army National Guard, you must get this conviction expunged, set aside or pardoned. In the event you are not able to get your conviction expunged, set aside or pardoned, you may be considered for separation from the Vermont Army National Guard. If you are not separated at that time, you will not be allowed to reenlist or extend and will ETS on 31 January 2010.

This counseling is not provided as a punitive measure under the provisions of Article 15, UCMJ, but as an administrative measure to stress that continued behavior may result in initiating actions to separate you from the Army or the National Guard under AR 135-178. If you are involuntarily separated, you could receive an Honorable discharge, a General discharge under honorable conditions, or an Other Than Honorable discharge. If you receive an Honorable discharge, you will be qualified for most benefits resulting from military service. An involuntary Honorable discharge, however, may disqualify you from re-entering the service and receiving transitional benefits (e.g. health benefits) and the Montgomery G.I. Bill. If you receive a General discharge, you will be disqualified from re-entering the service and you will be ineligible for some benefits, including the Montgomery G.I. Bill. If you receive an Other Than Honorable discharge, you will be ineligible for re-entry and for most benefits, including the Montgomery G.I. Bill. You may also face difficulty in obtaining civilian employment, as employers have a low regard for General or Other Than Honorable discharges. You are directed to correct the deficiencies outlined about, or initiating of elimination proceedings may be necessary.

OTHER INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement. For separation requirements and notification of loss of benefits/consequences see local directives and AR635-200

Plan of Action: (Outlines actions that the subordinate will do after the counseling session to reach the agreed upon goal(s). The actions must be specific enough to modify or maintain the subordinate's behavior and include a specified time line for implementation and assessment (Part IV below).)

1. I am suspending you from all favorable actions (which includes performing ADSW, if applicable).
2. I am suspending your security clearance until all criminal and military actions have been completed.
3. You are to keep me informed on steps you have taken regarding getting your conviction expunged, set aside or pardoned and to provide copies of all documents pertaining to such action.

Session Closing: (The leader summarizes the key points of the session and checks if the subordinate understands the plan of action. The subordinate agrees/disagrees and provides remarks if appropriate.)

Individual counseled: ☒ I agree ☐ disagree with the information above.
Individual counseled remarks:

Signature of Individual Counseled:

Robert Brumby

Date:

2008-1-27

Leader Responsibilities: (Leader's responsibilities in implementing the plan of action.)

Leader Plan of Action is followed.

Signature of Counselor:

[Signature] CAT LG

Date:

23 JAN 2009

PART IV - ASSESSMENT OF THE PLAN OF ACTION

ASSESSMENT: (Did the plan of action achieve the desired results? This section is completed by both the leader and the individual counseled and provides useful information for follow-up counseling.)

Counselor:

Individual Counseled:

Date of Assessment:

Note: Both the counselor and the individual counseled should retain a record of the counseling.

30

District Court of Vermont
Unit No. 2, Chittenden Circuit
32 Cherry Street, Suite 300
Burlington, Vermont 05401
www.VermontJudiciary.org - (802) 651-1800

ENTRY REGARDING MOTION

Docket No: 2290-6-92 Cncr State vs. Brunelle, Todd A.
2290-6-92 Cncr, count 1 SIMPLE ASSAULT - DOMESTIC
2291-6-92 Cncr, count 1 UNLAWFUL MISCHIEF

Title of Motion: Motion to Expunge Record, No. 1
Date Motion Filed: February 17, 2009
Motion Filed By: Attorney for:
Defendant Todd A. Brunelle

☐ Granted

☒ Denied

Scheduled for hearing on: _____ at _____; Time Allotted _____

☐ Other

The court has no authority to
expunge an adult conviction. This
would appear to be a highly
appropriate case for a Governor's
pardon. I recommend that you contact
the Governor's office concerning that
process.

Judge Crawford

Date 2/24/09

Date copies sent to: 2-17-09
Defendant, Todd A. Brunelle
U Plaintiff, State

Clerk's Initials W

JAMES H. DOUGLAS
Governor



State of Vermont
OFFICE OF THE GOVERNOR

October 13, 2009

Josh O'Hara, Esq.
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr. O'Hara:

Governor Douglas has reviewed Todd Brunelle's completed application for a pardon and I am writing to advise you that his request for a pardon has been denied.

A pardon is a discretionary and extraordinary act of clemency and is granted only in the rarest circumstances. The fact that a pardon was not granted is in no way intended to diminish Mr. Brunelle's efforts and accomplishments since his conviction.

Sincerely,

A handwritten signature in cursive script that reads "Susanne R. Young".
Susanne R. Young
Counsel to the Governor

SRY/cm

c: Vermont Department of Corrections

LL

District Court of Vermont
Unit No. 2, Chittenden Circuit
32 Cherry Street, Suite 300
Burlington, Vermont 05401
www.VermontJudiciary.org - (802) 651-1800

ENTRY REGARDING MOTION

Docket No: 2290-6-92 Cncr State vs. Brunelle, Todd A.
2290-6-92 Cncr, count 1 SIMPLE ASSAULT - DOMESTIC
2291-6-92 Cncr, count 1 UNLAWFUL MISCHIEF

Title of Motion: Motion to Clarify and Reconsider Decision, No. 2
Date Motion Filed: October 27, 2009
Motion Filed By: , Attorney for:
Defendant Todd A. Brunelle

☐ Granted

☒ Denied

☐ Scheduled for hearing on: _____ at _____, Time Allotted _____

☐ Other

I agree with Judge Crawford - the Court has no
authority to change an assault conviction from
your record.

J. Crawford
Judge

11/10/09
Date

Date copies sent to: _____
Defendant, Todd A. Brunelle
Plaintiff, State

Clerk's Initials cmf

LL

District Court of Vermont
Unit No. 2, Chittenden Circuit
32 Cherry Street, Suite 300
Burlington, Vermont 05401
www.VermontJudiciary.org - (802) 651-1800

ENTRY REGARDING MOTION

Docket No: 2290-6-92 Cncr State vs. Brunelle, Todd A.
2290-6-92 Cncr, count 1 SIMPLE ASSAULT - DOMESTIC
2291-6-92 Cncr, count 1 UNLAWFUL MISCHIEF

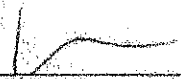
Title of Motion: Motion to Seal (Stipulation), No. 3
Date Motion Filed: December 4, 2009
Motion Filed By: Jarvis, Paul D., Attorney for:
Defendant Todd A. Brunelle

☒ Granted
☐ Denied

☐ Scheduled for hearing on: _____ at _____; Time Allotted _____

☐ Other

The Court is not seeking conviction
OR for a governor's pardon

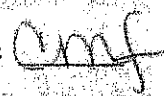


Judge

12/4/09

Date

Date copies sent to: _____
Paul D. Jarvis, Attorney for Defendant, Todd A. Brunelle
Plaintiff, State

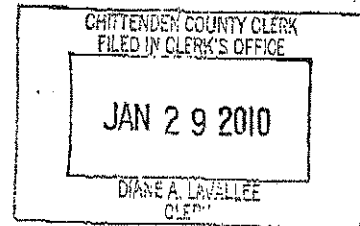
Clerk's Initials 

STATE OF VERMONT
Chittenden County, ss.:

SUPERIOR COURT
Docket No. S1644-09 CnC

Post-conviction Relief Petition:

TODD A. BRUNELLE



ENTRY

Petitioner was convicted of assault arising out of domestic violence eighteen years ago, when he was in his mid-twenties. He agreed to a plea bargain, for which a minor charge was dismissed and he received no time in jail. Now, eighteen years later, he is being adversely affected by a collateral consequence of that conviction. After a number of years in the Vermont Army National Guard, he is not being permitted to deploy with his unit for service in Afghanistan and is being denied re-enlistment. His present term of enlistment is apparently ending momentarily. We have been led to understand that although he has substantial time in the Guard, it is not enough to vest pension rights, so whatever way he has made toward such a benefit will be lost.

The problem with the Guard arises from operation of the "Lautenberg Amendment," 18 U.S.C. § 922(g)(9). That provision of law bars possession of guns or ammunition by those convicted of domestic assault. Without access to weapons, petitioner's utility for the Guard is understandably limited. Lautenberg did not exist at the time petitioner entered into his plea bargain. He had no idea back then that he would encounter his present situation. Most significantly, he has had a clean

record since that conviction in 1992—meaning virtually his entire adult life.

Petitioner comes to this court seeking post-conviction relief, on the ground that “he did not understand the plea at the time he entered into it.” The petition is accompanied by a stipulation indicating that the prosecutor assents to the granting of the requested relief.

Initially, we conclude that petitioner’s stated ground for seeking post-conviction relief is insufficient. His subjective understanding of his plea, and particularly its collateral consequences, is not the measure of its validity. All sorts of people, with all levels of intellectual ability, plead guilty to all sorts of crime throughout the courts of America. The law does not go back and strike all those convictions merely because a large number of those involved did not have a perfect understanding of this or that consequence or element of the criminal charge. Instead, pleas of guilty are governed by Criminal Rule 11, which sets out a prescribed area of inquiry, with a determination to be made by the judge accepting the plea regarding the sufficiency of the accused’s comprehension. See V.R.Cr.P 11(d) (requiring the court address defendant in open court, ensure the plea is voluntary and not the result of force or threats or promises, and whether the plea results from defendant’s discussions with the prosecutor and defendant or his attorney). In the present case, the petition is not accompanied by any transcript suggesting that change of plea was in any way deficient as a matter of law.

We of course note that this petition is accompanied by assent of the adverse party, the State, represented by the elected State’s Attorney. This is not, however, wholly private litigation. This is not a situation in which one private party seeks a money judgment and the obligor assents to its issuance. The validity and effect of a criminal conviction affects the public interest. Obviously, here, the Guard is affected by the existence or non-existence of a criminal conviction. Many reasonable people might conclude the public interest is better served by expunging that conviction, thereby permitting petitioner to maintain his status in the Guard after eighteen years of life free of criminal activity. Of course, his remaining on active duty in the Guard will permit his deploying to Afghanistan, which the leaders of our country consider to be a very high public interest. But courts do not engage in a balancing of public interest free of constraint. It

is the duty of courts to apply the law. In re D.L., 164 Vt. 223, 228 (1995) ("Briefly stated, the legislative power is the power that formulates and enacts the laws; the executive power enforces them; and the judicial power interprets and applies them.") (internal citations omitted). At its very core, the idea of a society based on law is the very opposite of one in which empowered public officials make decisions based only on their personal views of this or that interest.

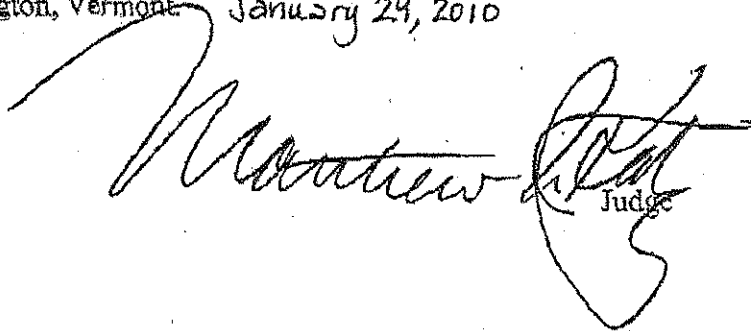
The law which is governing petitioner's fate at this moment is the Lautenberg Amendment. 18 U.S.C. § 922(g)(9). It may be short-sighted. It may be causing consequences never envisioned by the politicians who enacted it. But it is, nevertheless, the law.

PCR proceedings are designed to evaluate and correct fundamental trial errors. State v. Boskind, 174 Vt. 184, 191-92 (2002) (internal citations omitted). Were this court to grant post-conviction relief, what we would really be doing is sending a message to the Guard which is a lie. We would be saying that petitioner's 1992 conviction was invalid, should not exist and therefore does not exist. As a matter of both fact and law, from what we know of the petition and have learned from counsel, that is not correct. There was no fundamental error by the court in accepting defendant's plea. To issue a decree vacating that conviction would be to trigger acts by the Guard which would be based on a lie. If we are to preserve integrity, courts must deal in the truth. If we are to preserve the rule of law, we must apply the law. We must not propagate a lie, on which other important institutions will rely, because we reach a personal judgment that doing so will achieve some better outcome.

Petitioner is not without a remedy. The Vermont Constitution permits the Governor to pardon one in the position of petitioner. Vt. Const. ch. II, § 20. It is the essence of pardons that they are granted to the guilty. Despite guilt, other considerations such as mercy, subsequent events, collateral consequences are the very purpose for which the pardoning power exists. Doe v. Salmon, 135 Vt. 443, 445 (1977) ("[Pardoning] is an official act based upon public considerations as well as an act of grace."). It is a judgment to be made. But it is a judgment to be made by the legally empowered agency of government, in this case not the courts.

For the foregoing reasons, this petition is denied and the matter dismissed.

Done at Burlington, Vermont January 29, 2010


Judge

CAUTION: NOT TO BE USED FOR
IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD.
SAFEGUARD IT.

ANY ALTERATIONS IN SHADED AREAS
RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, first, middle) BRUNEMPS, TODD ALDEN		2. DEPARTMENT, COMPONENT AND BRANCH ARMY/ARNGUS		3. SOCIAL SECURITY NUMBER 009 12 34 56 78 90 11 22 33 44 55 66	
4a. GRADE, RATE OR RANK SSG	4b. PAY GRADE E06	5. DATE OF BIRTH (YYYYMMDD) 19660728		6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD) 00000000	
7a. PLACE OF ENTRY INTO ACTIVE DUTY BENNINGTON, VERMONT		7b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) [REDACTED]			
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND 020172ARCO C TANK FC			8b. STATION WHERE SEPARATED CAMP SHELBY, MS 39407		
9. COMMAND TO WHICH TRANSFERRED ARNG OF VT			10. SGLI COVERAGE AMOUNT: \$ 400,000.00		
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 63H30 TRACKED VEHICLE MECH - .17 YRS 6 MOS// NOTHING FOLLOWS		12. RECORD OF SERVICE		YEAR(S)	MONTH(S)
		a. DATE ENTERED AD THIS PERIOD		2004	11
		b. SEPARATION DATE THIS PERIOD		2005	09
		c. NET ACTIVE SERVICE THIS PERIOD		2004	01
		d. TOTAL PRIOR ACTIVE SERVICE		0000	00
		e. TOTAL PRIOR INACTIVE SERVICE		0000	00
		f. FOREIGN SERVICE		0000	00
		g. SEA SERVICE		0000	00
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) ARMY ACHIEVEMENT MEDAL (2ND AWARD)//ARMY GOOD CONDUCT MEDAL//ARMY RESERVE COMPONENTS ACHIEVEMENT MEDAL (3RD AWARD)//NATIONAL DEFENSE SERVICE MEDAL//ARMY SERVICE RIBBON//OVERSEAS SERVICE RIBBON//ARMED FORCES RESERVE MEDAL W/ M DEVICE//DRIVER & MECHANIC BADGE (2ND AWARD)//GLOBAL WAR ON//CONT IN BLOCK 18		14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) NONE//NOTHING FOLLOWS			
15a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM			YES	X	NO
b. HIGH SCHOOL GRADUATE OR EQUIVALENT			X	YES	NO
16. DAYS ACCRUED LEAVE PAID 0		17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION		YES	NO
18. REMARKS DD FORM 214 WILL BE ISSUED TO PROVIDE MISSING INFORMATION. ITEM 12 ABOVE DOES NOT ACCOUNT FOR ANNUAL AND/OR WEEKEND TRAINING WHICH SOLDIER MAY HAVE ACCOMPLISHED PRIOR TO DATE ENTERED IN ITEM 12A//ANNUAL COMPLETED PERIOD FOR WHICH ORDERED TO ACTIVE DUTY FOR PURPOSE OF POST SERVICE BENEFITS AND ENTITLEMENTS//ORDERED TO ACTIVE DUTY IN SUPPORT OF OPERATION ENDURING FREEDOM//AWARD USC 10302//SERVICE IN KUALA LUMPUR FROM 20050109-20050209//SERVED IN A DESIGNATED IMMINENT DANGER PAY AREA//CONTINUED BLOCK 13: TERRORISM EXPEDITIONARY MEDAL//GLOBAL WAR ON TERRORISM SERVICE MEDAL//IRAG CAMPAIGN MEDAL//NOTHING FOLLOWS					
19a. MAILING ADDRESS AFTER SEPARATION (Include ZIP Code) 2388 MAIN ST COLCHESTER VERMONT 05445-0000		19b. NEAREST RELATIVE (Name and address, include ZIP Code) JOHN BRUNEMPS 2388 MAIN ST COLCHESTER VERMONT 05445-0000			
20. MEMBER REQUESTS COPY 0 BE SENT TO		DIRECTOR OF VETERANS AFFAIRS		YES	NO
21. SIGNATURE OF MEMBER BEING SEPARATED		22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade and signature) CHARLES E. BETTLE, SGT, CHS PERSONNEL SV			

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION RELEASE FROM ACTIVE DUTY		24. CHARACTER OF SERVICE (Include upgrades) HONORABLE	
25. SEPARATION AUTHORITY AR 635-200, CHAP 4		26. SEPARATION CODE LBK	
27. REENTRY CODE NA			
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE			
29. DATES OF TIME LOST DURING THIS PERIOD (YYYYMMDD) NONE		30. MEMBER REQUESTS COPY 4 (Initials) THB	

NCO EVALUATION REPORT						FOR OFFICIAL USE ONLY (FOUO) SEE PRIVACY ACT STATEMENT IN AR 623-3.		
For use of this form, see AR 623-3; the proponent agency is DCS, G-1.								
PART I - ADMINISTRATIVE DATA								
a. NAME (Last, First, Middle Initial) BRUNELLE, TODD A.				b. SSN [REDACTED]	c. RANK SFC ()	d. DATE OF RANK 20060915	e. PMOSC 63X40	
f.1. UNIT ORG. STATION ZIP CODE OR APO, MAJOR COMMAND HHC, 186TH BIRGADE SUPPORT BATTALION, NORTHFIELD, VT 05663				f.2. STATUS CODE ADSW		g. REASON FOR SUBMISSION 02 Annual		
h. PERIOD COVERED		i. RATED MONTHS	j. NON-RATED CODES	k. NO. OF ENCL	l. RATED NCO'S EMAIL ADDRESS (.gov or .mil)		m. UIC	
FROM YEAR MONTH DAY 20081001	THRU YEAR MONTH DAY 20090930	12			[REDACTED]		WV53T0	
							n. CMD CODE NG	
							o. PSB CODE 50	
PART II - AUTHENTICATION								
a. NAME OF RATER (Last, First, Middle Initial) GATTONE, GEORGE C.				SSN xxx-x6-4809	SIGNATURE GATTONE, GEORGE C. 1007704603		DATE (YYYYMMDD) 20090916	
RANK CSM		PMOSC/BRANCH 11Z5E	ORGANIZATION HQ 186TH BSB		DUTY ASSIGNMENT Battalion Command S		RATER'S APO EMAIL ADDRESS (.gov. or .mil) [REDACTED]	
b. NAME OF SENIOR RATER (Last, First, Middle Initial) HARRIS, ANDREW M.				SSN xxx-x0-5705	SIGNATURE HARRIS, ANDREW, MICHAEL 1023672649		DATE (YYYYMMDD) 20090915	
RANK LTC		PMOSC/BRANCH AR	ORGANIZATION HQ 186TH BSB		DUTY ASSIGNMENT Battalion Commander		SENIOR RATER'S APO EMAIL ADDRESS (.gov. or .mil) [REDACTED]	
c. NAME OF REVIEWER (Last, First, Middle Initial) ROY, WILLIAM F.				SSN xxx-x6-0184	SIGNATURE ROY, WILLIAM FRANCIS 1005210263		DATE (YYYYMMDD) 20090916	
RANK COL		PMOSC/BRANCH IN	ORGANIZATION HQ 186TH BSB		DUTY ASSIGNMENT BDE Commander		REVIEWER'S APO EMAIL ADDRESS (.gov. or .mil) [REDACTED]	
d. <input checked="" type="checkbox"/> CONCUR WITH RATER AND SENIOR RATER EVALUATIONS <input type="checkbox"/> NONCONCUR WITH RATER AND/OR SENIOR RATER EVAL (See attached comments)								
e. RATED NCO: I understand my signature does not constitute agreement or disagreement with the evaluations of the rater and senior rater. I further understand my signature verifies that the administrative data in Part I, the rating officials in Part II, the duty description in Part III, and the APFT and height/weight entries in Part IVc are correct. I am aware of the appeals process of AR 623-3.					SIGNATURE BRUNELLE, TODD, ALLEN 1007762680		DATE (YYYYMMDD) 20090919	
PART III - DUTY DESCRIPTION (Rater)								
a. PRINCIPAL DUTY TITLE Maintenance Management NCO					b. DUTY MOSC 63X40			
c. DAILY DUTIES AND SCOPE (To include, as appropriate, people, equipment, facilities and dollars) Performs duties in preceding skill levels, supervises lower grade soldiers and provides technical guidance to the soldiers in the accomplishment of their duties; supervises the activities of the section performing unit and DS Maintenance on tactical utility and other associated equipment; applies maintenance management and quality control in maintenance activities.								
d. AREAS OF SPECIAL EMPHASIS Initiate action with the unit chain of command to resolve problems of attendance; ensure the BN has an effective Absence Contact Program; assist with the Unit Family Program where applicable.								
e. APPOINTED DUTIES Assist the commander in implementing the Vermont Army National Guard Retention and Attrition Management Program; identify and help solve/prevent attrition and retention-related problems, be the catalyst for success with the BN Sponsorship Program								
f. COUNSELING DATES				INITIAL 20081003	LATER 20090325	LATER	LATER	
PART IV - ARMY VALUES/ATTRIBUTES/SKILLS/ACTIONS (Rater)								
a. ARMY VALUES. Check either "YES" or "NO". (Bullet Comments are mandatory. Substantive bullet comments are required for "NO" entries.)								
V A L U E S	Loyalty Duty Respect Selfless-Service Honor Integrity Personal Courage	1. LOYALTY: Bears true faith and allegiance to the U. S. Constitution, the Army, the unit, and other Soldiers.					YES	NO
		2. DUTY: Fulfills their obligations.					YES	NO
		3. RESPECT/EO/EEO: Treats people as they should be treated.					YES	NO
		4. SELFLESS-SERVICE: Puts the welfare of the nation, the Army, and subordinates before their own.					YES	NO
		5. HONOR: Lives up to all the Army values.					YES	NO
		6. INTEGRITY: Does what is right - legally and morally.					YES	NO
		7. PERSONAL COURAGE: Faces fear, danger, or adversity (physical and moral).					YES	NO
		Bullet comments						
o selflessly pursues completion of primary mission								
o displays unflinching integrity in all situations								

RATED NCO'S NAME (Last, First, Middle Initial) + BRUNELLE, TODD A.		SSN [REDACTED]	THRU DATE 20090930	+
PART IV (Rater) - VALUES/NCO RESPONSIBILITIES				
Bullet comments are mandatory. Substantive bullet comments are required for "EXCELLENCE" or "NEEDS IMPROVEMENT."				
b. COMPETENCE o Duty proficiency; MOS competency o Technical & tactical; knowledge, skills, and abilities o Sound judgment o Seeking self-improvement; always learning o Accomplishing tasks to the fullest capacity; committed to excellence		o his effort was key in the BN achieving it's retention rate of 73% for TY-09 o executed the battalion main effort ISO the Deployment Extension Stabilization Program, extending 53 of 73 eligible Soldiers o maintained the BN 79A rate at or below 1.0% o completed final phase of ANCOC this period		
EXCELLENCE (Exceeds std) <input checked="" type="checkbox"/> SUCCESS (Meets std) <input type="checkbox"/> NEEDS IMPROVEMENT (Some) <input type="checkbox"/> (Much) <input type="checkbox"/>				
c. PHYSICAL FITNESS & MILITARY BEARING o Mental and physical toughness o Endurance and stamina to go the distance o Displaying confidence and enthusiasm; looks like a Soldier		APFT PASS 20081004 HEIGHT/WEIGHT 67 / 212 YES o maintains impeccable military bearing at all times o successfully maintains physically fitness in order to perform any mission		
EXCELLENCE (Exceeds std) <input type="checkbox"/> SUCCESS (Meets std) <input checked="" type="checkbox"/> NEEDS IMPROVEMENT (Some) <input type="checkbox"/> (Much) <input type="checkbox"/>				
d. LEADERSHIP o Mission first o Genuine concern for Soldiers o Instilling the spirit to achieve and win o Setting the example; Be, Know, Do		o offers assistance freely to subordinates and peers o provides an outstanding example of how a Battalion Career Counselor should operate		
EXCELLENCE (Exceeds std) <input type="checkbox"/> SUCCESS (Meets std) <input checked="" type="checkbox"/> NEEDS IMPROVEMENT (Some) <input type="checkbox"/> (Much) <input type="checkbox"/>				
e. TRAINING o Individual and team o Mission focused; performance oriented o Teaching Soldiers how; common tasks, duty-related skills o Sharing knowledge and experience to fight, survive and win		o maintained continual contact and provided ongoing training to 5 subordinate unit career counselors o provided initial training to 2 new unit career counselors this period		
EXCELLENCE (Exceeds std) <input type="checkbox"/> SUCCESS (Meets std) <input checked="" type="checkbox"/> NEEDS IMPROVEMENT (Some) <input type="checkbox"/> (Much) <input type="checkbox"/>				
f. RESPONSIBILITY & ACCOUNTABILITY o Care and maintenance of equipment/facilities o Soldier and equipment safety o Conservation of supplies and funds o Encouraging Soldiers to learn and grow o Responsible for good, bad, right & wrong		o tracked down countless Soldiers, often after duty hours, to help solve issues and help them to extend their enlistments o provided 10 solid leads to BN recruiters this period o personally saved 5 soldiers from ETS'ing this period		
EXCELLENCE (Exceeds std) <input checked="" type="checkbox"/> SUCCESS (Meets std) <input type="checkbox"/> NEEDS IMPROVEMENT (Some) <input type="checkbox"/> (Much) <input type="checkbox"/>				
PART V - OVERALL PERFORMANCE AND POTENTIAL				
a. RATER. Overall potential for promotion and/or service in positions of greater responsibility. AMONG THE BEST FULLY CAPABLE MARGINAL <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		e. SENIOR RATER BULLET COMMENTS o promote with peers o continues to operate at a high level outside of his career field o responsible for the day to day success of the Battalion Retention Program		
b. RATER. List 3 positions in which the rated NCO could best serve the Army at his/her current or next higher grade. Brigade Retention NCO BN Operations NCO Unit ISG				
c. SENIOR RATER. Overall performance <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1 2 3 4 5 Successful Fair Poor				
d. SENIOR RATER. Overall potential for promotion and/or service in positions of greater responsibility. <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1 2 3 4 5 Superior Fair Poor				

TODD A. BRUNELLE APPLICATION FOR PARDON

ADDENDUM E

33. How will a pardon substantially aid you in improving your life (attach a separate sheet if more space is needed)?

I joined the Vermont Army Reserve National Guard because I wanted to serve my country and my community. I did well in the Guard, regularly advancing in rank and earning the respect of my fellow members of the Guard. I switched from being in the Reserves — a “weekend warrior” — to a full-time employment status because the Guard and I were a good match.

While in Kuwait, I did regular duty as a military police officer and was able to assist in maintaining the necessary security there. On one occasion, I was able to defuse a very volatile situation involving two soldiers that could have resulted in very serious consequences, not only for the two soldiers themselves but potentially others as well.

The deployment to Kuwait was hard on my family, but my wife and children supported me throughout, all of us pulling together and making a stronger family. We were ready for me to do my part again in Afghanistan when the 1992 conviction re-surfaced. The result was that I lost one of the most important parts of my life and also lost a great job that enabled me to provide a good living for my family. I was unemployed for almost nine months. Although I have resumed working, I have very little time-in-place that could be creditable for retirement and, having been only recently hired, am vulnerable to the vagaries of the economy.

A pardon would enable me to return to the Guard, resume my service to my country and my community and recover my accumulated time for retirement. It would enable me to better provide for my family.

TODD A. BRUNELLE APPLICATION FOR PARDON

ADDENDUM F

34. How will a pardon benefit society?

When Judge Katz denied my habeas corpus petition, he noted that my "remaining on active duty in the Guard will permit his deploying to Afghanistan, which the leaders of our country consider to be a very high public interest." If granted a pardon and thereby allowed to re-join the Guard, it is not likely that I will be deployed to Afghanistan, but it is likely that our country will find other uses for me, other uses that will also be of "a very high public interest."

In addition, I have acquired skills that help support our soldiers. Within the two years prior to my discharge, I had worked with a number of soldiers who had been terribly affected by their experiences in Iraq and Afghanistan. Some were individuals who simply wanted to disappear, to not be a part of society. One of them was a soldier who had attempted a suicide. I was able to work with him and his family and he is now a thriving member of society. The difficulties that returning soldiers have is a continuing problem. I can help.

Soldiers who work well within the system, who gain the respect of their commanders and those subject to their own command and who have the experience and skills to serve effectively bring an enhanced benefit to society. I believe I am such a soldier. The awards I have earned and the high performance reviews I have earned demonstrate that the officers to whom I reported believe so, too.

Altogether separate from the service to country, my being able to re-join the Guard and to thereby earn a better income and secure retirement benefits my family have an impact upon society as a whole. The income that I would earn would be an income that would be spent locally and that would help support other Vermonters in their efforts to better provide for their families. It has a cumulative effect that benefits society in general.

