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Suit filed over beating of inmate

The action, filed by attorneys for Nicholas Pinto, targets the Lackawanna County Prison.

SCRANTON – Attorneys representing an inmate savagely beaten by another inmate in Lackawanna County Prison last year will file a federal civil rights lawsuit against a former prison warden, three guards and Lackawanna County.

The suit, which attorneys electronically sent to federal court in Scranton on Wednesday, a copy of which was obtained by The Times Leader, alleges prison guards stood by as Michael Simonson, 33, of Plains Township, brutally assaulted fellow inmate Nicholas Pinto, 29, of Connecticut, and that the prison failed to properly segregate the two prisoners who were being held in different custody classes and should not have had contact.

Pinto was kicked in the head at least 15 times. He suffered brain damage in the Aug. 8, 2010, attack from which he has not recovered, his lawyers said.

Attorneys filing the suit represent Pinto's mother, Pamela J. Pinto, the guardian of his estate.

The suit seeks compensatory and punitive damages to provide for the care of Pinto for the rest of his life.

One of Pinto's attorneys, Dominic Guerrini of Kline & Specter, Philadelphia, said the suit also will allow a full investigation of the attack. Lackawanna County did not fully disclose the findings of the internal investigation of the incident and prison operating policies it conducted last year, Guerrini charged. Through the suit, he plans to subpoena that report and to initiate an additional investigation.

"We are seeking the opportunity to conduct a thorough investigation to find out why it happened and to make sure it never happens again," Guerrini said.

The suit alleges that three guards, Robert Jesso, Michael Mallick and Jason Talutto, were on duty in Pinto's housing unit on Aug. 8. Pinto was attacked by Simonson, who was then awaiting trial in the 2009 murder of Donald Skiff.

Simonson and another man, Elvis Riccardi, were charged with kidnapping Skiff, 34, of Plymouth, in Shickshinny and killing him.

Simonson would later plead guilty to second-degree murder in the Skiff case, for which he received a life sentence, and to attempted murder for attacking Pinto. Riccardi's trial on first-degree murder charges is set to begin April 4.

Pinto was attacked by Simonson as he entered his housing unit after a recreation period outside the unit. At that time, Mallick had "abandoned his post" and gone outside, the suit charges.

Pinto, who was awaiting sentencing on a federal child pornography charge, had been placed in protective custody after being assaulted and raped repeatedly by other inmates in the prison, the suit alleges. Simonson was being held in administrative custody, the highest security level. Protective and administrative custody prisoners were held in separate cells within the same housing unit.

The suit alleges that Talutto and Jesso opened the doors to the housing unit without ensuring Simonson was locked in his cell, and that the corrections officers stayed inside the unit's control room as Pinto was beaten, never taking action to stop the assault.

It also implicates the county and former warden Janine Donate for failing to enforce policies ensuring Simonson and Pinto were segregated and ensuring that all officers remained on duty throughout their shift and properly carried out their duties.

"The prison and the officials knew that Nick was vulnerable; they knew that he needed protection and they didn't do anything," Guerrini said. "There were systematic failures here."