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## **Inmate who was nearly stomped to death files federal lawsuit**

A former inmate at the Lackawanna County Prison who was nearly stomped to death by another inmate last summer filed a federal lawsuit Wednesday against the county, the former warden and three prison guards, claiming prison officials acted with "deliberate indifference" to the inmates' safety despite "grave warnings."

The suit, filed by Kline & Specter of Philadelphia on behalf of Nicholas Pinto, seeks more than \$250,000 in compensatory and punitive damages. Scranton attorney Patrick M. Rogan is co-counsel.

Mr. Rogan said the suit "opens the door to a full disclosure" of what he said have been "convenient reports coming out of the prison that always describe this as an isolated incident. It is not an isolated incident."

A letter written by the prison's chaplain before Mr. Pinto was almost killed on the prison floor buttresses that claim.

The suit refers to warnings from the Rev. William B. Pickard, who four months before the attack wrote a letter to county commissioners stating he feared Mr. Pinto, whom he said had been sexually assaulted, was a "likely target" of more abuse.

Mr. Pinto, 29, now an inmate at a chronic care prison hospital in South Carolina, suffered permanent neurological damage in the attack, Mr. Rogan said. "The prognosis is it is permanent. He will need care."

Lackawanna County Commissioner Mike Washo referred all questions to Old Forge attorney David Solfanelli, who was unavailable for comment.

The nine-page suit lists as defendants former Warden Janine Donate, guards Robert Jesso, Michael Mallick and Jason Talutto. The warden resigned abruptly in November.

According to the suit, Mr. Mallick had abandoned his post and was outside in the parking lot when Mr. Pinto was stomped 15 times by inmate Michael Simonson. At the time, Mr. Simonson was being held on a murder charge out of Luzerne County, and Mr. Pinto was jailed while awaiting sentencing on a federal child pornography charge.

Under prison policy, Mr. Simonson, an administrative-custody inmate whose movements were supposed to be restricted and closely monitored, should not have had access to Mr. Pinto.

Mr. Talutto and Mr. Jesso, who were in control of access into and out of the housing unit, opened the access doors without first checking to see if all administrative custody inmates had been locked inside their cells, the suit states.

After the doors opened, the suit states, Mr. Pinto walked into the unit while Mr. Simonson lay in wait to savagely beat him "with impunity from the correctional staff." None of the officers intervened while Mr. Simonson pounded Mr. Pinto's skull, the suit states.

The suit states Mr. Simonson had a "known history of violent and unpredictable behavior." After beating Mr. Pinto, the suit states, Mr. Simonson returned to his cell and "had the opportunity to wipe off the blood that accumulated on his shoes."

As previously reported, discipline was handed out to the prison staff in the wake of the beating, ranging from a demotion from lieutenant to corrections officer for supervisor Lt. Nancy Carroll to a 60-day suspension for Mr. Mallick to five-day suspensions for Mr. Talutto and Mr. Jesso, sources said.

The suit claims all the defendants acted with "deliberate indifference and without due care" in monitoring and protecting Mr. Pinto.

In December, Mr. Simonson, 33, pleaded guilty to attempted first-degree murder in the attack on Mr. Pinto. On his way back to prison, Mr. Simonson headbutted another inmate while shackled in a Lackawanna County Sheriff's Office van. There was another headbutting attributed to him in Luzerne County in August when Luzerne County Sheriff's deputies led Mr. Simonson into a courtroom. Mr. Simonson lunged at a co-defendant in a murder trial, Elvis Riccardi, and headbutted him.

The suit states county prison officials in Scranton failed to "properly segregate" Mr. Simonson.

"What happened to Nicholas Pinto was simply unacceptable. Through this lawsuit, we intend to hold the county and its personnel responsible for the consequences of their actions," said Dominic Guerrini, of Kline & Specter, P.C., which was representing Mr. Pinto's mother, Pamela Pinto, in the case. The suit states Mr. Pinto is incapacitated.