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Suit accuses officers of beating man

He has decreased cognitive abilities, headaches, it says

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A man has sued the Wilkes County Sheriff's Office, a Wilkesboro police officer and an N.C. Highway Patrol trooper, alleging that they beat him in a 2007 incident that left him in intensive care.

Attorneys for Paul Absher, 26, filed a federal civil-rights lawsuit last week alleging that the officers violated his civil rights. He is asking for \$10 million to compensate him for his injuries and another \$10 million in punitive damages.

Absher was charged with assault on a law-enforcement officer and resisting an officer in an incident Sept. 19, 2007. He was convicted on both charges in Wilkes District Court on July 2. He has appealed the case to Superior Court.

His attorneys, John Taylor Jr., John Morrow and John Vermitsky, allege that Absher was shocked with a Taser at least 10 times, beaten with batons and punched. He was in a coma and hooked up to a ventilator at Wake Forest University Baptist Hospital for five days and in the intensive-care unit for nine days, according to the lawsuit.

The incident left Absher with short- and long-term memory difficulties, "a permanent decrease in cognitive abilities, headaches and inability to taste or smell," the lawsuit says.

The lawsuit names Wilkes County deputies Harold Martin, Harper Hartley and Gene Wyatt. It also names Rocky Moore, a Wilkesboro police officer, Trooper Brandon Stokes, and several unknown deputies who can be added to the lawsuit once the attorneys learn their names, Vermitsky said.

Martin referred questions to Tony Triplett, the attorney for Wilkes County. Messages left for Hartley, Moore and Stokes were not returned. Wyatt could not be reached.

Triplett said he had not yet reviewed the lawsuit in detail.



"Our intention will be to defend the case vigorously," he said.

Sheriff Dane Mastin of Wilkes County said that the sheriff's office did an internal investigation on the incident and found no improper actions by the deputies.

The account of the incident in the lawsuit differs sharply from the sheriff's office report, which Mastin gave to the *Winston-Salem Journal*.

This is the sheriff's office version: Martin was on patrol on N.C. 18 in the Boomer community when he came upon Absher lying on the road, near the

intersection with Russell Gap Road.

As he was checking on Absher, a woman drove up. The lawsuit identifies her as Georgia Minton, Absher's girlfriend.

According to the sheriff's office report, Absher went behind Martin's patrol car and started urinating. He then tried to get into the patrol car on the passenger side.

Martin wrote that he asked Absher to get out, but Absher refused and kicked him.

Martin took Absher down and had one handcuff on him when Absher got up and started swinging the free handcuff at him. Martin wrote that he pepper-sprayed Absher.

"He again refused and started running around in circles still trying to hit me," Martin wrote.

Martin got Absher on the ground again and handcuffed him. He then got off Absher, who began running away.

That's when Hartley and other officers began arriving, answering Martin's call for backup. Hartley used his Taser on Absher.

Moore then used his Taser on Absher. Officers put Absher in Wyatt's car and he was taken to the Wilkes County Jail, where he was charged with the two misdemeanors.

Moore's report says that officers then called an ambulance. A doctor put Absher into an induced coma at Wilkes Regional Medical Center because he was a danger to himself.

There is no mention in Martin's report of Absher being beaten in the prisoner-intake room at the jail, which the lawsuit alleges is a beating caught on videotape.

Minton faced the same charges as Absher. She was acquitted of the assault charge and convicted of the resisting charge. She has appealed the conviction.

This is how Absher's allegations differ from Martin's account:

Absher was beside the road about 10:30 p.m., not lying in the road. Martin accused Absher of being drunk.

Absher had smoked "a small amount" of marijuana 8 1/2 hours earlier, took a Xanax about 11 hours earlier and had another drug, Flexeril, in his system from taking it the day before. Those were the three drugs later found in his system.

Absher told Martin he hadn't been drinking and would take a Breathalyzer test. The lawsuit says that Martin slammed Absher to the ground after Martin had told Absher to get in the patrol car. Absher started to get into the passenger seat, which was the door nearest to him.

The lawsuit says that Martin weighs about 260 pounds, and Absher is 5 feet 8 inches tall and weighs 130 pounds. Martin's report conflicts with that. It says that Absher weighs between 162 and 190 pounds.

After Martin pepper-sprayed Absher, the two stumbled around. It didn't appear to witnesses that Absher was running away or that Martin was chasing, the lawsuit says.

The lawsuit alleges that Moore used the Taser on Absher once and that Hartley used his Taser at least 10 times after Martin's backup arrived. A Taser logs each use and the voltage used.

The lawsuit says that Hartley used "drive-stun" six times on Absher as other officers kicked and beat Absher with flashlights and batons.

A Taser shoots prongs with hooks that dig into clothes or skin, then transmits 50,000 volts of current to subdue the person.

"Drive-stun" is a mode in which the officer puts the Taser right on the person and delivers a sharp jolt.

The lawsuit alleges that deputies turned away paramedics who arrived to treat Absher. It accuses Hartley of using "drive-stun" mode on Absher three more times when Absher was in the back seat of Wyatt's patrol car.

At the jail, Martin punched Absher in the stomach, the lawsuit alleges, citing Martin's testimony during Absher's criminal trial. The lawsuit says that Wyatt, Hartley and two other officers also beat Absher and that the beating was recorded by the jail's surveillance cameras.

The lawsuit says that Absher's lawyers wrote to the sheriff's office and asked them to preserve the surveillance tape, but that the tape was reformatted into a video that only shows a series of still photos of the incident.

It's not clear what was lost when the tape was changed, said Vermitsky, one of Absher's lawyers.

Absher was taken by ambulance to Wilkes Regional Medical Center about an hour and 15 minutes after he was taken to the jail. From there, he was transferred to Wake Forest University Baptist Medical Center in Winston-Salem.

The lawsuit said that Absher had a fracture near the base of his skull, bleeding on his brain and two fractured ribs, along with various bruises, scrapes and cuts.

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1 2 > [Last Page: 2](#)

Posted by ([xyyzz22](#)) on 09/23/2008 at 12:56 am.

Looks like he fought the law and the law won.

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Posted by ([fatdumper](#)) on 09/23/2008 at 08:07 am.

What a freakin waste of tax payers money with this frivalous waste.The attorney representing him should be

subject to all court costs when he loses. To quote: The incident left Absher with short- and long-term memory difficulties, ".But just long enough to remember all those details about how his civil right were violated. Its amazing how much you remember and how creative one can get when 20 MILLION is brought into the picture. When he loses he should be jailed.

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Posted by (ernie) on 09/23/2008 at 08:16 am.

Do you suppose the drugs could have caused the memory loss.....DUH UH .

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Posted by (citizen) on 09/23/2008 at 08:29 am.

It seems that the video was conveniently redone; also, no one gets those types of injuries without them being inflicted. This guy needs to have this all reviewed in court with a jury. Let the chips fall where they may.

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Posted by (JohnG) on 09/23/2008 at 08:58 am.

They reformatted the video into still pictures! Sounds like tampering with evidence on the part of the law.

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Posted by (Duke22) on 09/23/2008 at 09:11 am.

This is prime example of police brutality which happens so often.

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Posted by (Kittyotis) on 09/23/2008 at 09:17 am.

I'm starting to formulate a plan here. I think I'll go somewhere and urinate in public (maybe on the courthouse steps for maximum effect). When the cops come rushing from the doughnut shop to arrest me for indecent exposure, I'll resist arrest and try to run away. I'll fight them so hard that they'll HAVE to subdue me. I'll let them go ahead and beat the cr@p out of me and Taser me so I'll have lots of marks and bruises to show for it. Then, a year or so down

the road, I'll sue them for twenty million bucks! I can quit my job, retire rich and never even buy a lottery ticket. And I'll promise to never urinate in public again.

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Posted by (obie) on 09/23/2008 at 12:26 pm.

I don't know who did what to whom, or whether one set of facts is right and the other wrong. I can say with certainty though that no one is put into a medically induced coma because he is "a danger to himself". That would be a reason for commitment orders, or a tranquilizer, not an induced coma. Patients are put into medically induced comas because they have life-threatening head injuries, such as a skull-base fracture. That is why he was transferred from Wilkes to Baptist Hospital.

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Posted by (MZOMBIE) on 09/23/2008 at 02:34 pm.

I like Kittyotis' comment the best....

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Posted by (rocky08) on 09/23/2008 at 05:26 pm.

How can we jump to conclusions about what happened? With all the police misconduct caught on video these days, how can we assume the police are in the right and Absher in the wrong?

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[1](#) [2](#) > [Last Page: 2](#)


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