

Defendant in Yale sex assault trial testifies complainant was the aggressor

By Randall Beach

Defendant Saifullah Khan, on trial for sexual assault, testified Tuesday that his accuser actually was the sexual aggressor who invited him into her Yale dormitory room and then into her bed.

For three full hours Khan gave a detailed and sometimes graphic account of what he asserted happened three years ago during a rowdy Halloween night of campus partying, a Yale Symphony Orchestra concert at Woolsey Hall — during which the female complainant in this case vomited — and the couple's sexual encounter in her bedroom early the next morning.

Khan's testimony differed almost completely from that of the complainant, who last week said he took over her cellphone, took advantage of her drunken state and "raped me."

The courtroom was filled all day Tuesday with Yale students, reporters and other interested observers. Those in attendance also

Pattis asserted of the complainant: "She made up this story because she can't face the fact that the one night when she took a walk on the wild side, she's got to face her friends the next day. I think she let her friends convince her she'd been raped."



Saifullah Kahn, a former Yale student on trial for allegedly sexually assaulting a female classmate, leaves New Haven Superior Court recently.

heard spirited closing arguments from the prosecutor and two defense attorneys.

The six jurors finally began deliberations at 4:45 p.m. Fifteen minutes later, Superior Court Judge Brian T. Fischer sent the jury home and instructed them to resume Wednesday, unless the snow is too

intense for them to come to court.

Khan, 25, is charged with sexual assault in the first, second, third and fourth degrees. He and the complainant were seniors at Yale when they had their sexual encounter. Yale officials suspended him after she made her accusation and he has not returned.

The defendant, attired in a dark suit and tie, politely answered, "Yes, sir" and "No, sir" to the multitude of questions posed by Supervisory Assistant State's Attorney Michael Pepper and defense attorney Norm Pattis.

Those in the courtroom listened most intently when Khan talked about what happened after he walked the woman back to her room at Yale's Trumbull College. Security card swipe records show they arrived there at 12:43 a.m.

He recalled she was "giggling and laughing" in response to his "random, dumb jokes" as they made the short walk from Woolsey Hall to her residence hall, where he also lived.

Khan said he helped her to her doorway and she walked into her suite. "I said 'Good night' and started walking toward my entryway. She walked back toward me and called out my name."

Pattis asked, "How did you interpret her tone?" Khan replied: "As if there was some expectation."

Khan added, "I said, 'Yeah' and she said, 'Do you want to come back to

my room?'" I said, 'Yes' and started walking back toward her entryway. She opened the door."

He continued: "She started taking off her clothes. I took off my tie."

Noting the woman was dressed in a cat costume for Halloween, Pattis asked: "What part of her costume did she take off?"

"The top," Khan replied.

Pattis: "What was going through your mind as she was taking her clothes off?"

Khan: "I was excited and I was aroused."

But then, he said, she asked him to go out and try to find a friend of hers, who also lived at Trumbull College. Her friend had had many drinks at the Shabtai Jewish society party they had attended and they became separated. (It turned out she was taken to the Yale Health center for treatment.)

Khan said he returned to the complainant's bedroom to tell her he couldn't find her friend. "When I knocked on her door, she was fully undressed." Shortly after that, he said, "We were on her couch. She was sitting on top of me."

"She told me she didn't have any condoms and said that if I had any, to go get some," he testified. "So I went back to my room and got them."

Khan then described their oral sex. He said it occurred near her couch.

Pattis: "Did she ever indicate she was not willing, ready and able?" Khan replied, "There was nothing that indicated that, sir."

He testified she vomited during the oral sex and then took a shower. At that point he called his long-term girlfriend, who testified Monday about their "open relationship."

Khan said he spoke to her for about two hours on his cellphone, at one point putting the complainant on to briefly say hello to her, as they had taken a Yale summer physics course together.

After he completed the long phone call, Khan testified, "She said, 'Come to bed.'"

She said they started "cuddling and spooning" and then she asked him if he had another condom. He said he got one off the couch and they had intercourse.

Afterward, he said, he fell asleep on the couch. But he said when she woke him up at about 6 a.m., "She was saying she was angry at me, asking why we had sex and she didn't want anyone to know."

He testified he tried to reassure her he would keep it a secret. He said when he texted her from his room a little bit later, she responded with a text reading: "LOL." He testified this stands for "Laugh out loud."

During his cross-examination of Khan and in his closing argument, Pepper reminded the jurors that the state's witnesses, many of them the complainant's friends, had testified

she was so intoxicated that she was having trouble walking and talking. Khan testified he never observed any such behavior.

Pepper, following up on testimony from the complainant's friend that she saw Khan take the complainant's cellphone from her as they prepared to enter Woolsey Hall, asked Khan if he did take her phone. Khan replied, "No, sir."

Citing Khan's testimony about what happened when the complainant angrily awakened him, Pepper asked: "All of a sudden she's a completely different person?" Khan said, "Yeah. She said she felt disgusted and asked, 'Why did we have sex?' I was confused."

In his closing argument, Pepper charged Khan took the woman's phone and thus "isolated her from her friends." Pepper said Khan sent text messages to the woman's concerned friends from her phone, posing as her and telling them she was OK.

Pepper told the jury: "What transformed that night from happy into a nightmare was she miscalculated her own tolerance for alcohol. She ate too little and drank too much. But that's not criminal. And it doesn't absolve the defendant."

Pepper asked the jurors why the complainant would make up a story and put herself through 2 1/2 days of emotionally wrenching testimony.

In his closing argument, Pattis noted the complainant's "short skirt and tube top" she wore that night.

"She's dressed to party."

Noting the complainant's memory gaps about what happened in her room, Pattis asked the jurors: "Then how are you supposed to know?"

Pattis charged Yale police and administrators quickly concluded Khan was the aggressor "before the investigation was over. What the hell is wrong with Yale University? Shame on Yale!"

In an apparent reference to the "me too" movement of women calling out sexual offenders, Pattis said "this is a terrifying time to try a sex case."

Pattis asserted of the complainant: "She made up this story because she can't face the fact that the one night when she took a walk on the wild side, she's got to face her friends the next day. I think she let her friends convince her she'd been raped."

Khan said he has not had any contact with her since that day.

"Did you rape her?" Pattis asked.

"No, sir," Khan replied. ■