

A Yale Student Accused Her Classmate of Rape. His Lawyers Asked What She Was Wearing and How Much She Drank

By KATIE REILLY

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Norm Pattis
Defense Attorney



Vanderbilt Hall stands on the Yale University campus in New Haven, Connecticut on June 12, 2015.

How much did she have to drink? Why didn't she wear a more modest outfit? Why did she and the man she later accused of raping her look "like two lovers" while walking together on campus? These are some of the questions that defense attorneys asked a Yale

University student who brought a rape complaint against her classmate.

The questioning occurred during a rare criminal trial over a campus sexual assault case, and is all the more striking amid an ongoing national reckoning over women's

allegations of sexual misconduct against dozens of powerful men in industries ranging from politics to Hollywood. The court proceedings drew criticism from groups that support sexual assault victims, who said the defense attorneys' questions were an assault survivor's "worst victim-blaming nightmare."

The trial also comes at a moment when the very definition of consent and sexual assault is being debated on college campuses, pitting students who believe schools need to do more to support alleged victims against those who think schools need to do more to protect the rights of the accused. Much of the debate has focused on campus proceedings, particularly after Education Secretary Betsy DeVos last year rolled back Obama-era Title IX guidance that had instructed colleges to use a lower burden of proof when investigating sexual assault complaints. But the Yale University case shed light on what happens when such complaints are handled in a court of law, as they rarely are.

The trial ended Wednesday when a jury found 25-year-old Saifullah Khan not guilty. Khan was accused of sexually assaulting a fellow Yale student after a Halloween party in 2015. He was suspended from the university in 2015 pending a disciplinary hearing, his attorney said. A spokesperson for Yale declined to comment.

During the trial, Khan's lawyers asked whether the woman who accused Khan had previously flirted with him and how much she had

to drink the night she alleged that he assaulted her. The lawyers also asked the woman why she had worn a black cat costume instead of dressing up as something more modest, like "Cinderella in a long flowing gown," the New York Times reported.

That type of questioning blames alleged victims and may discourage other women from coming forward with accusations, said Fatima Goss Graves, president of the National Women's Law Center, which advocates for women's rights, including on issues of sexual assault and harassment. "These sort of myths about rape are deeply embedded not only in our culture, but also in our legal proceedings, and are a big piece of why it is that, even though we know rates of sexual violence are so high, rates of reports are so low, especially in the criminal justice system," she said.

"What I worry about is the message that it may send to survivors about their ability to use the criminal justice system."

Maura Crossin, executive director of the Victim Rights Center of Connecticut, which represented the female Yale student, declined to comment.

Norm Pattis, Khan's attorney, said the questions were relevant to the defense's argument.

"If you dress in a sexually provocative manner, don't be surprised if someone becomes provoked. Does that justify rape? No. Was that one of the factors that

led Mr. Khan to believe she might be willing to explore intimacy? Yes," Pattis told TIME on Thursday. "It was directly relevant, and to suggest otherwise is criminally naive, if not stupid."

"If you flirt with somebody, you have a little bit too much to drink, you invite him back to your room, and you're wearing provocative clothing, don't be surprised if the individual looking at you is going to be provoked," he added. "People need to take responsibility for the signals they send. All this outrage about the questions I asked is really ridiculous. You don't get a free pass just because you claim to be a victim."

Pattis — like other lawyers and advocates for students who say they are falsely accused — said that accused students have been unable to get a fair hearing in campus sexual assault proceedings, arguing that the Obama-era Title IX guidance created an "institutional bias" against them. DeVos' decision to roll back that guidance last year was swiftly criticized by advocates for victims of sexual assault, who have warned that it will discourage victims from coming forward to report rape and, by extension, make campuses less safe.

In testimony, the alleged victim said that on the night in question, she was separated from her friends after drinking at a party, lost consciousness several times and walked with Khan back to her dorm room. She testified that she fell asleep on her bed fully clothed and felt Khan on top of her in the

middle of the night, according to the New Haven Register. When she woke up, she was naked and had bruises on her legs, the New York Times reported. Khan's account differed; he said she invited him into her room and initiated sex. The jury found him not guilty after determining that there was "sufficient doubt" about each of the charges, one of the jurors told the Times.

When asked during the trial if she planned to file a civil suit against Khan or Yale, the woman said no. "I have nothing to gain by this," she said, according to the Times. "It's been difficult reliving it the last three days."

In a statement after the trial on Wednesday, Pattis criticized Yale for how it had handled the case on campus, and called for the university to readmit Khan. "We're grateful to six courageous jurors who were able to understand that campus life isn't the real world," Pattis said in the statement. "Kids experiment with identity and sexuality. When an experiment goes awry, it's not a crime."

For those who have pushed for changes on campus to more clearly define consent and ensure that sexual assault claims are taken seriously, criminal proceedings that focus on women's outfits or flirtatious text messages are a disappointing setback.

"It also shows a huge discrepancy between the way that we teach students on campus about consent, and the way that courts and

antiquated laws look at sexual violence and consent," said Jess Davidson, interim executive director of the group End Rape on Campus. "This case is every survivor's worst victim-blaming nightmare." ■