

Defense attorney in Yale sex case defends tactics that brought a not guilty verdict

By Randall Beach



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

Attorney Norm Pattis, whose aggressive defense of a former Yale led to the student's acquittal on charges that he

sexually assaulted another Yale student, says he has no regrets about his courtroom tactics

but he feels "terrible" about "the ordeal" the accuser went through.

“ [Norm] Pattis said he had trouble sleeping the night after the verdict. “I called Michael Pepper and asked him to tell her (the complainant) that I felt terrible for her. And I still do. I asked him to say how sorry I was for the ordeal she went through at that trial. But it was my role to defend Mr. Khan and I’d do it all over again.”

In a trial marked by high emotions and graphic sexual testimony, a New Haven Superior Court jury of three women and three men last week found Saifullah Khan, now 25, not guilty of sexual assault in the first, second, third and fourth degrees.

Both Khan and his accuser testified during the trial, giving starkly different accounts of what happened in her bedroom in the early morning hours of Nov. 1, 2015, after a night of Halloween partying and drinking.

She testified first, spending almost three full days on the witness stand describing how Khan “raped me” after bringing her to her room at Yale’s Trumbull College. She acknowledged she couldn’t recall much of what happened because of her drunken state. But she insisted she did remember feeling him “on top of me” and “inside me” in the middle of the night. She said she tried to fight him off but was unable to do so.

Khan’s testimony was delivered in a polite, low-key manner, contrasting with the demeanor of his accuser, who often wept as she spoke. He said he escorted her to her room after she vomited while sitting next to him during a Yale Symphony Orchestra concert at Woolsey Hall. He testified he said good night to her at her door but she invited him into her room and began to take off her Halloween

costume. He said the oral sex and intercourse that followed was consensual.

That cat costume became one of the most controversial items in the trial. Pattis has been sharply criticized by the accuser’s supporters for reminding the jurors that it featured a short skirt and a tube top without shoulder straps. But during an interview Saturday afternoon, Pattis noted it was Supervisory Assistant State’s Attorney Michael Pepper “who brought the costume into the room and showed it to the jury.”

Pattis added, “She chose that costume knowing she would see Mr. Khan that night at the party. As I pointed out during the trial, she could have gone as Cinderella in a long gown. Why did she choose that alluring cat costume?”

In a story on the trial’s outcome by the New York Times, Laura Palumbo, identified as a spokeswoman for the National Sexual Violence Resource Center, “called the defense’s line of questioning ‘all victims’ worst fears in coming forward.’”

“It is very intentionally working to trigger victim-blaming and stereotypes and misconceptions about sexual assault,” Palumbo said in the Times’ story. “You must be interested in sexual behavior just based on how you’re dressed and drinking.”

This strategy also angered many in the Yale community, including Amelia Nierenberg, a columnist for the Yale Daily News. She wrote that Pattis and his co-counsel, Daniel Erwin, had used the argument of “she was asking for it” by calling attention to her style of dress.

Nierenberg called this “a misogynistic tactic that men habitually use to silence women who have experienced sexual violence by blaming them for their own assaults. The clothes women choose to wear are never invitations for assault.”

When asked to respond, Pattis, who had not read the column, called Nierenberg’s overall argument against reinstating Khan to campus “naive” and “politically correct.”

Pattis said “empathetic” Yale alumni who are “outraged by what’s happening with Title IX issues on campus” helped pay for Khan’s defense.

Pattis’ closing argument to the jury sharply criticized how Yale students are taught and learn compared with in the past. “We didn’t have gender sexuality studies when I went to college; we studied biology. We didn’t try to construct a politically correct garden.”

Pattis elaborated on this view during the Saturday interview. He described some Yale students as “mushy-minded people looking for ‘safe spaces.’” As

for the #MeToo movement, Pattis said its supporters have “abandoned reason” and the wise principles of Aristotle.

“MeToo has gone a little crazy,” Pattis added. “The men who have been accused should say: ‘You’ve made these accusations; now prove it.’”

Pattis said Khan is “satisfied and happy” with the jury’s verdict but has been “deeply wounded by the savage public hostility toward him.” Pattis said he, too, is surprised by the reaction, calling it “chilling.”

“He is reluctant to speak now because of this enormous hostility being directed at him,” Pattis said. He noted Khan is trying to relax outside of Connecticut. He has uncles in Toronto and Virginia.

Pattis said the trial was particularly tension-filled for Khan because if he had been convicted, he would have faced not just prison time but also deportation after his release. He was born in Afghanistan, where one of his uncles, a government official, was killed by a Taliban bomb. Khan spent years living in a refugee camp in Pakistan.

Pattis said he decided to take on Khan’s case because “I represent people in a jam. This was a kid in a jam.”

A few days after the complainant made her accusations, Khan, then in his senior year, was suspended from Yale. He has

not been allowed to return. The complainant, a classmate of Khan’s, graduated the following spring.

“He very much would like to finish his Yale degree,” Pattis said of Khan.

Pattis noted Khan has a right to a hearing in front of the University-Wide Committee on Sexual Misconduct. This has been put on hold, awaiting the outcome of the criminal trial. Yale officials have declined to comment on the hearing and on the verdict.

The committee makes its findings based on a “preponderance of the evidence” rather than the guilt beyond a reasonable doubt standard in criminal courts. Pattis acknowledged this will make it harder for Khan to be readmitted to Yale.

Pattis maintained the committee’s process is unfair to those who stand accused. He cited “political pressures” on the committee members and called the group “a political entity draped in the presumption of guilt.”

Pattis also noted the accused are not given the right to cross-examine the accuser. “I don’t think we would have won our case without cross-examination” (of the complainant).

During Pattis’ lengthy cross-examination of her, he repeatedly quoted from what

he termed the “flirtatious” texts she had sent Khan in the days before their sexual encounter. Pattis read aloud to the jurors a Shakespearean sonnet the woman texted to Khan. It began: “From fairest creatures we desire increase, that thereby beauty’s rose might never die.”

Moreover, a few hours after the alleged assault, she texted to him: “LOL” (laugh out loud). Pattis also brought this up during his closing argument.

Pattis recalled during the interview that when he asked the woman about the sonnet, she testified she didn’t read all of it and was “mocking him” for his sense of self-importance. When asked about this and her other texts to Khan, she replied she texted everybody in the same manner.

“At that point I could see the jurors looking at me and asking themselves: ‘Really?’” Pattis said.

Pattis said he has “no second thoughts or reservations” about how he cross-examined the complainant or any other moves he made during the trial.

Nevertheless, Pattis said he had trouble sleeping the night after the verdict. “I called Michael Pepper and asked him to tell her (the complainant) that I felt terrible for her. And I still do. I asked him to say how sorry I was for the ordeal she went through at that trial. But it was

my role to defend Mr. Khan and I'd do it all over again."

Pepper does not talk to reporters about his cases and so was not asked for his comment.

Pattis said, "I have a daughter a little bit older than the accuser. Cross-examining this child is not an experience I'd choose to re-live. It was an extremely difficult trial and I'm glad it's over." ■