

Juror in Saifullah Khan Yale Rape Case Says Acquittal Was Justified: ‘I Think He’s Innocent’

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By Robby Soave



A jury acquitted former Yale student Saifullah Khan last week of committing rape on Halloween night in 2015. If you read Time, The New York Times, The Yale Daily News, or any number of other mainstream media outlets’ coverage of the case, this verdict may seem like a travesty of justice, even a calculated counterstrike against the #MeToo movement.

Khan’s defense attorney put the victim on trial, critics say, by asking her uncomfortable questions about her sexy Halloween costume, her sexual history, and her flirtatiousness toward Khan. Jess Davidson, interim director of the group End Rape on Campus, called this line of questioning “every survivor’s worst victim-blaming nightmare.”

But the Khan case is a lot more complicated than such stories have made it seem. Just ask Elise Wiener, a 56-year-old mother of three who served as an alternate juror in the case, who says she would have eagerly voted to acquit Khan if given the chance.

“It just didn’t add up,” Wiener tells me. “I think he’s innocent, I think he doesn’t deserve this, and I think it’s sad.”

Wiener didn’t get to attend the jury’s deliberations, but she sat through the entire trial, evaluating all the evidence the prosecution presented.

She came away quite convinced that there was little to support the accuser’s story.

“It was like George Orwell, like 1984, where you’re looking at [the evidence], and they’re saying it’s the complete opposite of what it looked like,” said Wiener.

Khan and his accuser were seniors living in the same dormitory at Yale. They didn’t know each other well. Both attended a series of events that Halloween. In the course of the evening, the accuser became so drunk that she vomited and found herself separated from her friends. Khan walked with her back to her dorm room, where they had sex. Later, they would each remember the night very differently. Khan maintained that she had taken off her clothes for him, initiated oral sex, and then vomited again. She took a shower to clean herself off while Khan called his long-distance girlfriend, with whom he was in an open relationship. Khan’s girlfriend

would testify at trial that she spoke with the accuser very briefly after her shower. The call then came to an end, and Khan and the accuser had sex.

Khan's accuser claimed she couldn't remember many of the night's events but that she hadn't consented to sex. The next morning, she told him he was "a piece of shit" and went to the university hospital to get the morning-after pill and an STD test. (Khan told her they had used protection, but the accuser didn't trust him, she said in her testimony.) The accuser told hospital personnel that she had engaged in "consensual sex"; during the trial she said that was because she was too traumatized to admit the truth to them. After meeting with her friends, she decided to go to the university's sexual misconduct office, where the police immediately began an investigation.

Two key pieces of evidence were supposed to establish Khan's guilt. The first was surveillance footage of Khan and the accuser walking to her dorm. According to the prosecution, this footage showed Khan dragging an unwilling victim. But that's not what Wiener saw.

"She was strolling with him with a big grin," said Wiener. "And that was supposed to show that she was in a drunken stupor, and she was being dragged by him?"

The video footage, according to Wiener, simply didn't support the prosecution's argument.

Then there were the text

messages. As The New York Times characterized them:

After Mr. Khan left, the victim said, she looked through her phone and found that he had sent messages to her friends on her behalf the night before, declining their invitations to meet up after the show.

Such a specifically deceitful act would indeed make Khan's guilt seem more likely. The problem—unacknowledged by The Times—was that the prosecution could present no evidence that Khan had sent those messages instead of the accuser.

"There's no evidence that it was him," said Wiener. "It's just not evidence, it's conjecture."

I asked Wiener why the accuser would make up such a story—why she would go to such lengths to punish Khan. Wiener saw a couple of possibilities. One was that she woke up revolted with herself for having slept with Khan. The other, more benign explanation is that she really had convinced herself she hadn't consented to sex. In either case, Wiener felt the evidence simply wasn't in her favor.

Other jurors apparently reached the same conclusion, according to The Times:

The juror who spoke anonymously said that the panel had not focused on the banter or on Mr.

Pattis's suggestion that the woman's Halloween costume had been too sexy. Instead, the jurors focused on evidence like security camera footage that showed the complainant and Mr. Khan walking back to her dorm room. The complainant had testified that the footage showed her so drunk that she was unable to support herself, her leg dragging behind her.

"We looked at and we looked at and we looked at that video of them walking," the juror said. "We could not see her leg dragging. We could not see her eyes shut. We could not see what she said." ■