

BEATEN A SECOND TIME: ASSAULTED WOMAN STILL REELING FROM EX- HUSBAND'S ACQUITTAL

By [Ellen Grant](#) *Wednesday, Nov 13 1991*

When police arrived at her east Phoenix apartment one night last March, Alice Wheeler was lying face down in a pool of blood.

Her husband, Samuel Parker, answered the door and, according to police records, admitted he had beaten his wife. The police handcuffed him and placed him under arrest. He was later charged with two counts of aggravated assault and one count of kidnaping.

On the surface, the case looked like just another chapter in the tragic tale of domestic violence. There was a battered victim who says her husband choked her, beat her with his fists, spit on her, then bludgeoned her face and head with two heavy glass ashtrays. For evidence, there was blood on the living room carpet and blood covering the victim's face in dramatic police photographs taken in a hospital emergency room.

But a jury wound up acquitting Samuel Parker.

Alice Wheeler, a bartender by profession, has divorced Parker, but her anger about the September 27 verdict has not subsided.

Shoving aside the bangs of her short, dark hair to show the scars on her forehead, Wheeler traces the metal plate inserted above her left eyebrow, the plastic plate inserted below her left eye. "These were blows that I took," she says. "These aren't lines or wrinkles. I want someone to justify this to me. . . . I know a man brutally attacked me and he walked out of my home without a scratch and he walked out of the courthouse without a scratch."

But jurors tell *New Times* that the prosecutor from the Maricopa County Attorney's Office botched the case and that Alice Wheeler, a convicted criminal, was not believable. "It was her word against his," says juror Marvene Shill Ellis. "We decided we believed him more because she was a habitual liar. God, I wouldn't want any woman hurt or injured by any man, especially by a husband, but I couldn't find him guilty."

Ellis says the jury, on which women were the majority, discussed how the verdict might be perceived as unfair to women. "I'm a member of NOW. I'm very much a feminist. It would kill me to ever think I allowed someone to beat up a woman."

But she and the two other jurors interviewed by *New Times* say the case simply wasn't proven.

Maricopa County prosecutors were "flabbergasted" about the verdict, says Peter Reinstein, chief of the criminal trial bureau of the Maricopa County Attorney's Office. The prosecutor, David Rodriguez, is young and has tried only a handful of cases, but this was the first one he had lost, says Reinstein, his boss. "I looked at the file after the verdict," says Reinstein, "and I know he argued it very vigorously."

The jurors dispute that.

"The state really didn't present a good case," says juror Donn Ragan. "The defense attorney--he worked on the case. The state didn't work on the case."

Samuel Parker's attorney, Daniel Raynak, argued that the evidence was inconclusive, that his client acted in self-defense and that Wheeler wasn't credible. (Parker himself could not be reached for comment for this article.)

Juror Ellis recalls that a few women in the courtroom "hassled" the jurors as the panelists filed out of the room, and that one said, "I guess women have no rights in Arizona."

"I felt bad about it," says Ellis. "I don't care if [Wheeler] lied. I don't mean that she should be beaten. I don't care if she was drunk. I don't think anybody should be beaten up. But I don't think he should go to jail for 25 years or whatever without it being proven."

The jurors point out that the prosecutor produced little evidence of the assault other than a series of gruesome photographs of a battered and bloodied Alice Wheeler.

"I don't care if she had ten convictions. I don't care if she was drunk. All it would have taken was a hospital report," says the jury foreman, Sabine Wallman-Evans.

Juror Donn Ragan says: "I voted guilty with about three others on the first poll." But others, he says, convinced him to change his vote because the evidence was inconclusive.

Jurors question why police didn't dust the ashtrays--the assault weapons--for fingerprints or take blood samples. At the trial, Parker testified he struck his wife at least four times--but only after she hit him with a heavy glass wine decanter. The police didn't examine the wine decanter or ask Parker what provoked the assault, says defense attorney Raynak, who adds, "He did admit striking her more than once. From what he testified, she struck him first."

Jurors also question why prosecutors didn't introduce medical records or a doctor to document the severity of Wheeler's injuries. "The evidence was inconclusive," Wallman-Evans says. "Ashtrays and pictures aren't going to do it."

Did prosecutor Rodriguez consider introducing Wheeler's medical records? Yes, he says, "but the judge instructed the jury all we needed to show was 'any physical injury using a dangerous instrument.' And we used the photographs. The photographs clearly showed injury."

Fingerprints and blood samples taken from the weapons weren't necessary because the identity of the attacker wasn't a question, Rodriguez says. "With all the physical evidence, there's no question as to what happened," says Rodriguez. "I didn't think they were necessary. If they don't want to believe her, they're going to find something. I believed her." Reinstein adds: "I think when these people tell you they didn't have enough evidence, they are rationalizing their decision."

"The evidence is overpowering," Alice Wheeler bitterly contends. "Officers testified he had blood on his hands and hair and I was lying in a pool of blood. This is not enough evidence? He said to the officers, ~~~`I am going to kill her.' This is not enough evidence?"

That's what the jurors say. "In the beginning, obviously you're going to be startled by that," Wallman-Evans says of the gruesome photographs, "but then again, they can be very deceiving." Marvene Shill Ellis adds, "It looked bad, I know it did, but you know photographs don't always tell the truth."

Without medical records, the jurors say, the photographs weren't enough proof. "I know she bled," Ellis says, "but I couldn't find him guilty of such terrible charges based on the evidence. We just had her word about her injuries."

And Alice Wheeler's word was in grave doubt, the jurors say.

Ragan terms Wheeler "a bimbo, pure and simple."

"She was not a good witness," Ellis says. "I just thought, `I don't believe this woman.'

And her friends were worse." Wallman-Evans says Wheeler's friends, who testified as character witnesses, testified that she drank a lot, while she said she didn't. She testified she wasn't drunk the night of the assault. Her witnesses testified she had been drinking all day.

Wheeler had been in trouble "time and time again," says juror Ellis, who points out that her witnesses had only known her for about two months and that Parker produced character witnesses who had known him for about 14 years.

Witnesses, including police and parole officers, characterized Wheeler as a liar and an alcoholic with a violent streak.

Rodriguez tried to block information about Wheeler's past from being introduced at the trial. But Superior Court Judge Bernard J. Dougherty allowed jurors to hear about Wheeler's felony conviction in 1985 for possession of dangerous drugs and about Wheeler's numerous parole violations.

Defense attorney Raynak says: "She admitted, on the stand, that in the previous case she lied to the police and she had lied to the judge and she had lied to her probation officer numerous times."

Peter Reinstein defends his young prosecutor's handling of the case, saying, "If this had to be tried again, I don't think David would do anything differently."

Under the law, Reinstein says, all the prosecution has to prove is if any injury occurred. "There was no dispute whether or not she suffered an injury," he says. "We had the cop's testimony, the victim's testimony, the weapon and the pictures. And remember, all you have to prove was any injury. Under these particular circumstances, a doctor would have not made any difference."

Alice Wheeler breaks into tears when talking about her case. "What did I do? Tell me: What was my crime? I'm not a liar," she says. "I'm not an alcoholic."

"I want someone to justify this to me, that anyone can step into my space and do this to me and all they have to say is I'm a liar and an alcoholic and an addict and I deserved it. There was no fingerprints, no blood type and I'm a liar."

Since the trial, Wheeler has moved into a new apartment. But she still has the couch that's stained by her own blood. The wine decanter her ex-husband claimed she used as a weapon sits on her dining-room table. "I relive and replay opening that door and this man beating me," she says. "I haven't had a good night's sleep since I don't know when. I know what happened in that room. The pictures show what went on in that room."

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