

Rand lawyer asks for change of venue

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Andre Rand's lawyer, claiming that the 43-year-old drifter cannot receive a fair and impartial trial on Staten Island because of "biased and prejudiced public opinion," moved yesterday to have the murder case tried in another county.

District Attorney William L. Murphy said he will oppose the motion when it comes up Nov. 6 before the Appellate Division of the Supreme Court in Brooklyn.

Appellate courts traditionally have been reluctant to grant such motions, doing so only in rare instances. In recent years, court sources note that the Appellate Division has usually denied motions for changes in venues, instructing both sides to attempt to select a jury. If a problem exists with obtaining qualified jurors at that point, the appeals courts says that they may then renew the motion.

Rand is charged in an indictment with the kidnap-murder of Jennifer Schweiger of Westerleigh, a 12-year-old child with Down's syndrome whose disappearance on July 9 sparked a massive search on Staten Island. Her body was found Aug. 12 in a shallow grave on the grounds of the former Staten Island Developmental Center, Willowbrook. Police said the grave was near a campsite maintained by Rand.

In the motion papers, Rand's lawyer, Jerome V. Giovinazzo, singled out the Advance for providing residents of Staten Island with a "day-to-day account" of what was unfolding, beginning with the girl's disappearance, the arrest of Rand, the discovery of the body and subsequent developments.

Giovinazzo said the Advance's coverage was "simply overwhelming."

The lawyer claimed that the stories "stirred an intense local outcry," resulting in a "massive wave of sympathy" for the dead girl.

The extensive coverage directed at Rand included reports on his background and of police attempts to determine if he had been connected with the disappearances of other children on Staten Island. As a result, Giovinazzo said, his client cannot receive a fair trial on the Island.

"The people of Staten Island don't think of Rand as the defendant in just this case," Giovinazzo said, referring to police efforts to link Rand to other missing children. "They see him as a threat to their children, their nieces, their relatives. Meanwhile, there is no proof of these allegations."

To support his motion, Giovinazzo attached to his court papers the results of a poll that a private investigator retained by the defense carried out on Staten Island over a nearly four-week period.

Of 230 persons polled, said Anthony DeGise, the private investigator, 218, or about 95 percent, had seen or heard of the case through the news media. Twelve, or 5 percent, said they knew nothing of the case.

Of those who had been exposed to the pretrial publicity, the poll showed that 196 believed Rand was guilty while 22 persons said they had formed no opinion.

Almost all of those polled in New Brighton, Stapleton, Great Kills, New Dorp, Tottenville and other areas said they believed the "vast majority of persons in Richmond County believed the defendant guilty," DeGise said.