

Rand lawyer seeks data on witnesses

BY ADVANCE STAFF WRITER

Andre Rand's court-assigned lawyer officially began preparing for Rand's trial yesterday with a battery of motions, including one seeking the identities of prosecution witnesses.

The answers to other motions may well decide whether the 43-year-old drifter will take the witness stand.

Supreme Court Justice Norman J. Felig reserved decision on a motion in putting the case over to Dec. 17 and setting a deadline for Assistant District Attorney John Loughrey to respond to the defense motions.

Rand is charged with murder and kidnapping in the death of Jennifer Schweiger of Westerleigh, a 12-year-old with Down's syndrome whose body was discovered Aug. 12 in a shallow grave on the grounds of the former Staten Island Developmental Center, Willowbrook, a short distance from where police said Rand had maintained a campsite.

One of the motions submitted by Rand's lawyer, Jerome V. Giovinazzo, seeks the identities of about eight witnesses who the prosecution says saw Rand walking with the girl from a point near her home along a route of about a mile to inside the developmental center's grounds on July 9, the day she disappeared.

The girl's disappearance sparked a massive search on Staten Island.

Giovinazzo said in his court papers that the case of circumstantial evidence that the prosecution claims to have built against Rand is based almost solely on the observations of these witnesses.

The lawyer also called upon Felig to review the minutes of the grand jury that indicted his client with a view toward dismissing the indictment should the judge conclude that the evidence before the grand jury was legally insufficient.

Giovinazzo said his inquiries have shown that the "sole evidence" of wrongdoing against Rand was that he allegedly was seen with Jennifer on the day she disappeared.

"It should be noted that even the witnesses who allegedly state this defendant was with Jennifer do not state that he in any way was abusing, neglecting or harming Jennifer Schweiger.

"In fact, some of the evidence and press releases indicate that if this defendant was with Jennifer Schweiger, she was allegedly walking with this defendant hand in hand and simultaneously smiling."

Giovinazzo pointed out that the medical examiner's report fails to state when, where or how the girl died.

"Although the medical examiner has labeled the death of Jennifer Schweiger a homicide, it appears that the medical examiner was simply drawing a conclusion without any basis in fact for it," Giovinazzo said.

Another of Giovinazzo's motions seeks to bar the prosecution from bringing out Rand's previous criminal record should he take the witness stand in his own behalf. The prosecution normally can bring out a defendant's past criminal record only if the defendant takes the witness stand, and is intended to challenge his credibility as a witness.

"The defendant has critical evidence to offer on his own behalf," Giovinazzo said. "If he takes the witness stand, he will expose his criminal record. The degree of prejudice to flow will outweigh the prohibitive evidence of the prior convictions to the issue of credibility."

The motion seeks a wide variety of evidence, including police records, in the hands of the prosecution. It also seeks to suppress evidence, such as statements or identifications, which authorities may have obtained unlawfully from Rand.