

# Indictment upheld in Rand case

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A judge yesterday denied a defense motion to dismiss an indictment against Andre Rand based on a review of the minutes of the grand jury that indicted him on charges of kidnapping and murdering Jennifer Schweiger, a 12-year-old girl with Down's syndrome.

Supreme Court Justice Norman J. Feig, upon reading the minutes, said he found that "legally sufficient evidence" had been placed before the grand jury to "sustain" the charges in the indictment and to bring him to trial on them.

Feig announced his decision in taking up a bevy of defense motions in a so-called "discovery" proceeding, through which the defense seeks to obtain certain evidence in the hands of the prosecution before a trial commences. In some cases, the defense may seek to bar the prosecution from introducing evidence it may consider damaging to the defense, based on police conduct and unlawful practices. These issues are the subject of pretrial hearings.

Feig put the case over to Feb. 4. At that time, he said he will set dates for various evidence sup-

pression hearings, as well as a trial date.

Feig granted defense motions for hearings to determine whether statements made by Rand to police may be introduced as evidence by the prosecution at the trial. The procedures used by authorities to identify Rand also will be the subject of a hearing, as will the extent to which the prosecution will be allowed to go into Rand's previous criminal record, should he decide to take the witness stand.

Assistant District Attorney John Loughrey, in response to questions from Jerome V. Giovinazzo, Rand's court-assigned lawyer, confirmed that police never found a murder weapon.

It also was learned that the prosecution intends to use at the trial statements the police recorded on tape in the West Brighton home of a clergyman where Rand resided prior to his arrest while authorities and an army of volunteers were searching for the missing girl last summer. The cleric consented to having his home "bugged."

The district attorney's office



Supreme Court Justice Norman J. Feig refused to dismiss the indictment.

has stated that its evidence against Rand is circumstantial. The prosecution says witnesses saw the girl walking with Rand on the day she disappeared, July 9, from near her home in Westleigh.

Other witnesses said they saw the two walk for more than a mile to the grounds of the former Staten Island Developmental Center in Willowbrook.

Jennifer's body was discovered Aug. 12 in a shallow grave on the

grounds of the center, a short distance from where police said Rand maintained a campsite.

Rand previously complained about being assaulted by fellow prisoners and had refused to come to court on one occasion because of harassment from other inmates in the transportation process from Rikers Island. He appeared fit and content in court yesterday, and his beard was neatly groomed.