

Rand judge rules clothing can be evidence

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The prosecution will be allowed to introduce at Andre Rand's trial next month clothing that detectives said the 49-year-old driver let them remove from his campsite on the grounds of the former Staten Island Developmental Center, Willowbrook, a judge ruled yesterday.

Supreme Court Justice Norman J. Felig also denied a defense motion to suppress the identification testimony of a prosecution witness, Rhonda Romano. The judge said Mrs. Romano may testify at the trial that Rand was the man she saw walking hand-in-hand with Jennifer Schweiger, a 12-year-old with Down's syndrome, as they crossed in front of her car on the afternoon of July 9, 1987, at Woolley and North Gannon avenues about two blocks from the developmental center.

Detectives also found additional witnesses who said they saw Rand walking with the girl on the afternoon of July 9, 1987, from near her home in Willowbrook and along a route that took them onto the grounds of the center. Jury selection is due to commence Sept. 19 for the trial of

Rand, charged with the girl's kidnapping and murder. Despite an intensive search by hundreds of persons, her body was not discovered until Aug. 12 of last year. It was found in a shallow grave near Rand's campsite.

As a prelude to the trial, Felig has been engaged in presiding over a series of pretrial hearings on defense motions to determine whether certain prosecution witnesses, statements made by the defendant and physical evidence seized by police may be introduced at the trial by Assistant District Attorney John Loughrey.

The judge expects to hear the last testimony today relative to the hearings.

Felig refused to suppress as evidence a shirt, trousers and pair of socks that detectives said Rand permitted them to take after he voluntarily accompanied them to his campsite on July 19, 1987, while the girl's fate was still in question.

Rand's attorney, Jerome V. Giovinazzo, contended police should have obtained a search warrant. Felig disagreed. Among other matters, the judge said that Rand was in effect trespassing and in any event he had no "expectation of privacy" at the crude campsite, which detectives said Rand had divided into living areas with branches, brush and other items and even had devised an "early warning system" to detect intruders. The defendant also was not under arrest at the time, the judge found.

Felig ruled that Mrs. Romano had an "independent basis" for identifying Rand. The main issue surrounding her identification was that even though she became aware of the importance of her observation three days later through newspaper accounts of the girl's disappearance, she was uncertain of Rand's identification until she saw him on television following his arrest on Aug. 4 on a kidnapping charge.

Felig also sought to determine yesterday whether there had been anything suggestive, no matter

how accidental, about the identification testimony of two more prosecution witnesses.

Both were waiting in the district attorney's office with other witnesses to view lineups on Sept. 4 when Rand, wearing a beard, was brought into the building, and one or more persons in the room had been unable to identify Rand in an earlier lineup, although she subsequently picked him out from photographs.

The other witness, Susan Kovach, said she narrowly avoided hitting Rand and the girl as they crossed Bradley Avenue at Victory Boulevard after she had been forced to halt her car by a piece of construction equipment in the roadway about 2 p.m. July 9. Mrs. Kovach said Rand was "leading" the girl by her wrist, and he appeared to be pulling a collapsible-type shopping cart.

Mrs. Jackson said she went to a window in the district attorney's office when she heard the commo-

tion, saw Rand with a beard and then turned away from the window.

She said she did not mention her observation to anyone or hear anyone in the room say Rand had a beard. She said she next saw him clean-shaven in the lineup. She had been unable to identify Rand in an earlier lineup, although she subsequently picked him out from photographs.

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a piece of construction equipment in the roadway about 2 p.m. July 9. Mrs. Kovach said Rand was "leading" the girl by her wrist, and he appeared to be pulling a collapsible-type shopping cart.

On the night of July 10-11, Mrs.

Kovach failed to identify Rand in a lineup at the 120th Precinct stationhouse, St. George. She explained that in the lineup she saw only a full face view of Rand while when on Bradley Avenue she had only seen Rand's face in profile.

On July 12, she said she viewed "tons" of police mug shots, and picked out one, but pointed out to a detective only that the person depicted "resembled" Rand.

The following week she said detectives showed her more photographs and this time she made a positive identification of Rand. She also identified Rand at the Sept. 4 lineup at the district attorney's office. While waiting for the lineup and hearing the commotion, she said she overheard several other witnesses say that Rand now had a beard. However, she said she did not go to a window to see for herself.