

Supreme Court

Rand trial is set

BY ADVANCE STAFF WRITER

A judge yesterday wound up a series of pretrial hearings, clearing the way for the start of Andre Rand's trial on Sept. 19 for the kidnap-murder of 12-year-old Jennifer Schweiger.

Supreme Court Justice Norman J. Felig directed Assistant District Attorney John Loughrey and defense attorney Jerome V. Giovinazzo to dispose of the only open pretrial matters — determination of the audibility of various tape recordings — by the end of next week.

Police made the tape recordings while Rand, a 43-year-old drifter, resided in the home of a clergyman in West Brighton as a massive search was taking place to find the then-missing girl, a child with Down's syndrome. The cleric had agreed to cooperate with authorities in the investigation.

The girl's body was discovered Aug. 12, 1987 in a shallow grave on the grounds of the former Staten Island Developmental Center, Willowbrook, near where Rand maintained a crude campsite. She was last seen walking with Rand near her home in Westerleigh on the afternoon of July 9, police said.

Giovinazzo was unsuccessful in moving to have Felig bar the prosecution from introducing at the trial various testimony, including the identification testimony of five witnesses who said they saw Rand walking with the girl on the day she vanished.

Two of the witnesses, employees of the developmental center, said they knew Rand from having seen him at the center and saw him with the girl on July 9 about 3 p.m. on the grounds. Other witnesses traced the whereabouts of Rand and the child beginning at about 2 p.m.

Giovinazzo also unsuccessfully raised legal challenges to articles of clothing owned by Rand that police obtained from the defendant July 19 while the search for the girl was still in progress.

Felig also refused to suppress statements that Rand allegedly made to police immediately prior to his arrest on Aug. 4. Police said Rand voluntarily accompanied them earlier that day as they took him to different locations where witnesses said they had seen him with Jennifer. They also took Rand to Bayonne where he said he had been at the time the girl vanished on July 9.

A detective testified that he had intended to arrest Rand on Aug. 4, but decided on carrying out one last interview with him before taking him into custody.

Felig upheld the prosecution's contention that because Rand was not formally under arrest, it was therefore not necessary for police to advise the defendant of his so-called Miranda warnings to remain silent and to have an attorney present should he agree to speak to police.

Felig noted that among his considerations was the fact that the actions of detectives on that day were no different than on other occasions when they played a kind of cat-and-mouse game with Rand, the chief suspect, as they sought to find Jennifer. Felig also commented that he believed police had been "very fair" in seeking to check out Rand's alibi.