

Defense begins in Andre Rand murder trial

By **RAYMOND A. WITTEK**
ADVANCE STAFF WRITER

The prosecution rested its case against Andre Rand yesterday with its final witness, a newspaper reporter, testifying that Rand told her he had never seen Jennifer Schweiger, except for a photograph police showed him.

The testimony of Heidi Evans, a Daily News reporter, appeared to clash with the opening statement of Rand's lawyer. The attorney conceded that Rand was with the 12-year-old girl on the afternoon of July 9, 1987, walking her to the Staten Island Developmental Center, Willowbrook, from which Rand believed she has been a resident and had wandered off. The trusting, friendly girl had Down's syndrome.

Assistant District Attorney John Loughrey rested his case after calling 42 witnesses who testified over a seven-day period, clearing the way for Rand's lawyer, Jerome V. Giovinazzo, to open the defense today.

Supreme Court Justice Norman J. Felig denied Giovinazzo's mo-

tion at the conclusion of the prosecution's case to dismiss the kidnap-murder indictment against Rand, a 43-year-old drifter at the time of the crime.

Giovinazzo has indicated he will call two witnesses, both of whom are expected to testify they saw the girl walking on Victory Boulevard one to three hours after the last prosecution witness said he saw Rand with the girl on July 9, the date she vanished.

Giovinazzo has not said whether Rand will take the witness stand.

The judge tentatively has scheduled closing statements for Friday with the intention of handing the case to a jury of eight men and four women on Monday, the start of the trial's fifth week.

Ms. Evans interviewed Rand on Aug. 16, 1987, 12 days after his arrest, in the psychiatric ward at Kings County Hospital where he was being examined to determine his mental fitness to stand trial.

The Daily News unsuccessfully opposed a subpoena served on Ms. Evans to testify before the grand

jury that indicted Rand and to produce her notes of the interview. According to the newspaper's attorney, Kevin W. Goering, who accompanied the reporter yesterday, the newspaper maintained that the subpoena violated free press provisions of the Constitution's First Amendment.

When subpoenaed by the prosecution to testify at the trial, Ms. Evans said that, although she could have once again sought to fight it, she agreed to comply with the subpoena if it were "believed" the information in her article could be of assistance to the jury in its deliberations.

Ms. Evans, a reporter for 18 months, said that since she was not permitted to bring any writing material into the psychiatric facility she asked Rand to phone her later in the day to confirm the accuracy of her recollection of his statements.

She testified that Rand denied he had killed Jennifer.

She said she asked him whether he might have murdered Jennifer, but simply could not remember.

He replied that he "really could not answer that," she said.

"I wasn't planning on anything like this to happen," she quoted him as saying. "It just happened out of the clear blue. I'm sure in my mind and heart I had nothing to do with (Jennifer's killing)."

Under cross-examination, Ms. Evans said she believed Rand made this statement in referring to his being linked to the crime.

At one point in the interview, she said Rand expressed the opinion that Jennifer might still be alive "if the police wouldn't have become directly involved in this."

Page 20