

# Defense begins in Andre Rand murder trial

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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."

In the reporter's story, Rand explained his response, saying: "It's the way they found her. They found her dead and buried."

The girl's partially decomposed body was discovered Aug. 12 in a shallow grave about 500 feet from a campsite that Rand kept on the grounds of the developmental center, near Building 23. A former associate medical examiner said she had died of asphyxia but was unable to determine what caused it.

The prosecution's case of circumstantial evidence against Rand is based chiefly on the testimony of 10 witnesses who saw Jennifer walking with an older man between 2 and 3 p.m. on July 9. Only one of the witnesses was unable to identify Rand as the man.

The witnesses said they saw the two walking hand-in-hand beginning a block from Jennifer's home in Westerleigh and proceeding on a path that took them into the grounds of the developmental center. A center employee said he saw the two a short distance from Rand's campsite, walking in the direction of it.

One of the prosecution's witnesses, a state trooper, testified that 18 hours after Jennifer's disappearance, a specially trained bloodhound followed Jennifer's scent from her home to the center, a distance of 28 blocks, before losing the scent at the point where the center employee said he saw the two walking toward the campsite.

Detective Robert Jensen of the Crimes Against Property Squad, who was assigned to the investigation, showed the jury on a map the route followed by the bloodhound. He also marked on the map the locations where three of the witnesses said they saw Rand and the girl walking. The locations were along the route followed by the dog.

The detective also marked two more locations where witnesses said they made observations, in the vicinity of Woolley Avenue and the Staten Island Expressway, Willowbrook, but these two markings were some distance from the route followed by the bloodhound.

Jensen, who testified earlier in the trial, was responsible for di-

recting the attention of police to Rand, recognizing him from a description provided by the first witness who said he observed Jennifer, a neighbor, with a man.

Rand was arrested Aug. 4 after Jensen said Rand voluntarily accompanied him and his partner, Detective Ralph Aquino, as they checked out Rand's whereabouts on July 9, including to Bayonne. Jensen said they were unable to locate any witness who could corroborate any part of Rand's alibi.

On returning to Staten Island, Jensen said they went to a Graniteville motel where they had agreed to show Rand a videotape promotional film of the developmental center in which Rand had expressed an interest, as well as a tape recording of conversations made in the home of a West Brighton storefront clergyman.

Rand had lived with the clergyman and his family for a month prior to his arrest. The cleric had agreed to cooperate with police, permitting them to place a "bug" in a kitchen phone so that con-

versations could be taped around the clock for over a two-week period.

While watching the developmental center videotape, Jensen said he remarked to Rand that Jennifer's parents loved and cared for Jennifer and would not have wanted their daughter in the institution.

"Won't you tell us where Jennifer is?" Jensen said he asked Rand.

"He fell to the ground and cried," the detective said.

Rand had been employed at the developmental center for 23 months starting in February 1966, the detective said. He was hired under the name of Frank Rushan, but in 1979 he had his name legally changed to Andre Rand, the detective said he was informed.

Moira McNamara, an employee of a Port Richmond supermarket, said she had known Rand as a customer. She said she purchased a bicycle from Rand on July 12 for \$15. Rand told her he "needed money," she said. Witnesses said Rand was pushing the bicycle as he walked with Jennifer.

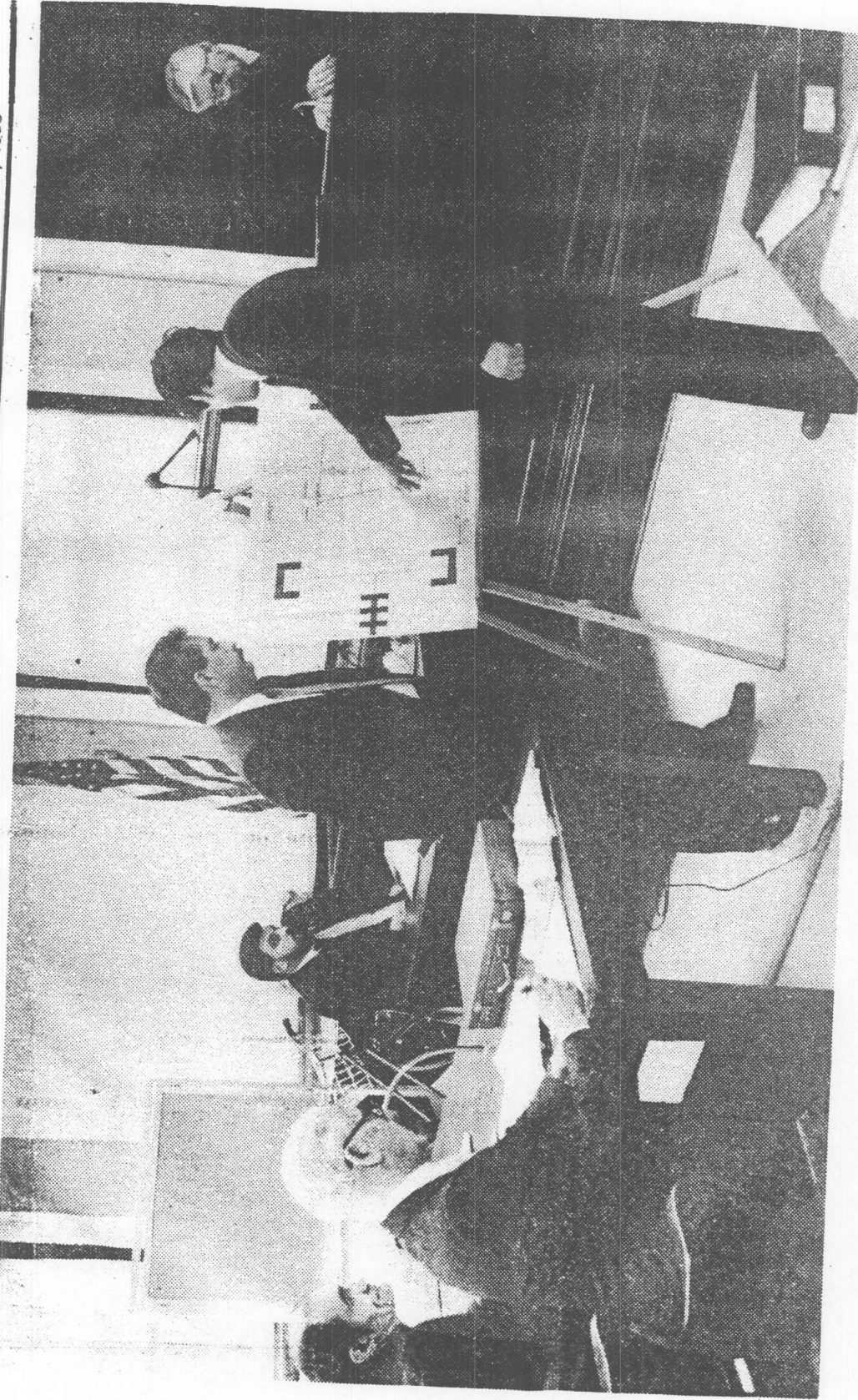


Heidi Evans, a Daily News reporter, tells jurors Rand's story to her contradicted the story told by his defense attorney.



Andre Rand listens at his trial, where he stands accused of murdering Jennifer Schweiger.

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ADVANCE PHOTOS/FRANK J. JOHN

Assistant District Attorney John Loughrey points to the spot on the map where Jennifer Schweiger's body was found as Detective Robert Jensen of the Crimes Against Property Squad looks on. Also pictured, at left, is Andre Rand, his attorney, Jerome V. Giovinazzo, court clerk Mike Bannon, and at right is Supreme Court Justice Norman J. Felig.