

Rand



ADVANCE PHOTO/STEVE ZAFFARANO

Andre Rand shows no emotion as his trial nears an end.

Jury set to weigh Andre Rand's fate

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The Andre Rand kidnap-murder trial was to be handed to a Supreme Court jury this morning. Justice Norman J. Felig directed the jury of eight men and four women to report at 9:30 a.m. so that he could instruct it on the law in the case before permitting the jury to commence delibera-

tions in the death of a 12-year-old Down's syndrome girl, Jennifer Schweiger.

The judge said he will charge the jury not only on the two counts in an indictment — second-degree murder and first-degree kidnaping — but also on a lesser kidnaping charge and a felony count

of unlawful imprisonment.

Upon conviction, the top counts of kidnapping and murder each carry a maximum sentence of 25 years to life.

The trial entered its fifth week yesterday. Over a nine-day pe-

riod, the jury heard 43 witnesses called by the prosecution and three defense witnesses.

In a 75-minute closing statement, defense attorney Jerome V. Giovinazzo conceded that Rand, a 44-year-old drifter, is an "oddball" homeless person who sometimes

sleeps in the woods, in cemeteries and parks, and "if he's lucky," in an apartment. But the lawyer denied that his client is a kidnapper or a murderer.

On the other hand, Assistant District Attorney John Loughrey, at the conclusion of his 55-minute summation, pleaded with a jury not to permit sympathy to enter into its deliberation.

If there is sympathy, he said, "don't let it be in favor of the defendant, who made all the decisions on July 9, 1987, ladies and gentlemen, but let it be in favor of this little girl who had her choices taken from her."

The girl's disappearance shortly before 2 p.m. on July 9 from in front of her home in Westerleigh, set off the largest search for a missing person in Staten Island's history, with hundreds of volunteers joining police, national guardsmen and other governmental forces in a massive search that covered many areas of the Island.

The search ended with the discovery of the girl's nude, partially decomposed body Aug. 12 in a shallow grave on the grounds of the former Staten Island Developmental Center, Willowbrook, about 500 feet south of a campsite maintained by Rand, a former center employee.

As the two lawyers gave the jury their different views, the gaunt, sharp-featured Rand sat stoically at the defense table, as he has throughout the trial. Sitting directly behind him, in the first row of the spectator section, were the dead girl's parents, Karen and Kenneth Schweiger, now New Jersey residents.

The prosecution's case is built almost exclusively on circumstantial evidence; there is no forensic or other evidence to connect Rand to the crimes.

The final witnesses yesterday turned the conclusion of the trial into a battle of words between forensic pathologists — one called for each side — to rebut or support the views of an associate medical examiner who in her autopsy report listed the cause of death as "undetermined," but

changed her opinion at the trial 18 months later. She now believes the girl died of asphyxia, although of unknown type.

Dr. Dominick J. DiMaio, a former city chief medical examiner, called by Giovinazzo, disagreed with the associate medical examiner. He testified there was "no way" that a cause of death could have been determined from the autopsy.

Dr. Louis Roh, deputy chief medical examiner of Westchester County and a former associate of Dr. DiMaio's in the New York City