

# Jury mulls Rand case 2nd day

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The jury in the Andre Rand trial entered its second day of deliberations this morning.

The eight men and four women who make up the Supreme Court jury were unable to agree on a verdict after having had the case for more than six hours yesterday, the 10th day of the trial.

Justice Norman J. Felig directed the jury to suspend its deliberations at 6:25 p.m. and sent it to a Graniteville motel for the night.

Rand, a 44-year-old drifter, is charged with the kidnap-murder

of Jennifer Schweiger, a 12-year-old girl with Down's syndrome. She disappeared on the afternoon of July 9, 1987 after she had left her home in Westerleigh to go outdoors to play.

Her body was discovered on Aug. 12 buried in a shallow grave on the grounds of the former Staten Island Developmental Center, West Brighton, about 500 feet from where Rand maintained a campsite.

The jury spent more than an hour listening to a read-back of the testimony of the two detectives assigned to the investigation, Robert Jensen and Ralph Aquino, and Heidi Evans, a newspaper reporter who interviewed Rand following his arrest on Aug. 4.

Although Rand did not testify, his lawyer, Jerome V. Giovinazzo, conceded that his client was with the girl on the afternoon of July 9, something that Rand had denied previously. The defense said at the trial that Rand was escorting the girl back to the developmental center, of which he believed she was a resident who had wandered off, when they became separated and never saw each other again.

The testimony of the detectives dealt in part with an alibi that Rand gave police when first questioned a day after the girl's disappearance. The police were unable to corroborate any portions of the alibi.

Rand also told police and the newspaper reporter that he did not know the girl. In his closing statement on Monday, Giovinazzo said Rand had lied to both the police and the reporter.

Earlier in the afternoon the jury requested the judge to re-charge it on the law on first-degree kidnapping and second-degree kidnapping. The difference between the two is that the victim died.

In an 80-minute charge at the beginning of the day, Felig indicated that the jury would first

have to determine the guilt, or innocence, of the defendant on either one of the kidnapping charges, before it could proceed to the question of the murder count. The murder charge is the so-called felony murder, holding that the girl died during the commission of the kidnapping.

The judge instructed the jury it "did not matter" whether the girl's death was "unplanned or unintentional," the only issue to determine to find guilt on this charge was whether the girl died during a kidnapping "or flight therefrom."

The judge also charged the jury on a lesser charge of unlawful imprisonment.

Assistant District Attorney John Loughrey's case against Rand is based chiefly on circumstantial evidence. Nine of 10 witnesses identified Rand as the man they saw walking hand-in-hand with the girl between 2 and 3 p.m. on July 9, beginning a block from her home, and proceeding along a route that ended on the grounds of the developmental center, a short distance from Rand's campsite.

While present for the judge's charge to the jury, the dead girl's parents, Kenneth and Karen Schweiger, now New Jersey residents, remained in the seclusion of the district attorney's office while awaiting a verdict.

Mrs. Schweiger has been present every day of the trial, and for the past two days she has been joined by her husband. He previously was excluded from the courtroom because of the possibility that he might be called a witness.

Mrs. Schweiger's moving testimony earlier in the trial brought tears to the eyes of the defendant. Since the start of the trial, she has balked at speaking to reporters and requested privacy. When approached by an Advance reporter after the jury started its deliberations, she again asked not to be questioned.

"Not today," she said, her voice quivering. "I just don't feel up to it."