

Blood Samples In Fatal DUI Destroyed

By The Associated Press

COLFAX, Whitman County — The destruction of blood samples taken from Fred Russell after a deadly 2001 car crash was an accident and did not warrant a formal investigation, state toxicologist Barry Logan testified Monday.

Russell, who fled the country before trial and was found in Ireland, faces three counts of vehicular homicide. He is seeking to have the blood-test results thrown out because his defense team cannot independently analyze them.

The results showed that legally he was drunk when he was involved in the auto accident that killed three Washington State University students and injured three others.

Logan testified at a hearing in Whitman County Superior Court that no independent investigation was conducted into the loss of the blood samples.

Russell's lawyer, Francisco Duarte of Seattle, wants the results banned from the trial.

Logan testified that it was only the second time that he knew of in which evidence was destroyed inadvertently by the state crime lab.

He said he thought the sample had been destroyed inadvertently by lab manager Ann Marie Gordon in July 2004 and he did not conduct an independent investigation.

"I don't believe it was a deliberate act," Logan said.

The hearing before Judge David Frazier was expected to continue today. It's not clear when he will rule.

The blood samples turned up missing in February 2005, even though Whitman County prosecutors twice asked the crime lab to preserve them.

Russell is charged with three counts each of vehicular homicide and vehicular assault in a four-car wreck on the Moscow-Pullman Highway in June 2001.

He fled to Ireland six years ago, was caught there in 2005 and later extradited. He is scheduled for trial in October.

He faces a maximum sentence of life in prison and a \$50,000 penalty on each count of vehicular homicide and 10 years in prison and \$20,000 on each assault charge.

While Duarte wants the blood-test results thrown out, prosecutors contend the tests are backed up by a blood test done by a hospital that showed the same thing — a blood-

alcohol content of 0.12 percent, above Washington's legal intoxication threshold of 0.08 percent.

They also argue that the legal standard for suppressing evidence that's been lost or destroyed is that it must be known to be likely to prove innocence.

The charge of vehicular homicide doesn't require that a driver be drunk.

Lana Weinmann, of the state Attorney General's Office, who's prosecuting the case, argued against throwing out the test results.

Weinmann said the destruction was inadvertent and not egregious enough to have compromised Russell's right to a fair trial.

In other motions, Duarte also has challenged the police search in obtaining medical records and asked that the trial be moved to King County because of "inflammatory" news coverage.