

elimination by withdrawal of the specifications of misbranding of which defendant was found not guilty in these two counts, I am of the opinion that the new trial as to the remaining specifications of misbranding therein will not be in violation of defendant's constitutional rights. Defendant's motion to dismiss, except to the extent and in the manner as indicated herein, will be, and is, denied.

"An exception is allowed."

On March 21, 1950, the defendant changed his original plea of not guilty to a plea of nolo contendere on counts 1 and 3 of the information, as limited by the court's decision of March 9, 1950. On March 22, 1950, the court imposed a fine of \$1,000 without costs.

**3063. Misbranding of Benzedrine Sulfate Tablets and sulfathiazole tablets. U. S. v. Samuel Price (Sam Price's Drug Store). Plea of nolo contendere. Fine, \$500. (F. D. C. No. 28150. Sample Nos. 53329-K, 53896-K, 53906-K, 54125-K, 54130-K, 54321-K.)**

**INFORMATION FILED:** April 5, 1950, Eastern District of Louisiana, against Samuel Price, trading as Sam Price's Drug Store, New Orleans, La.

**INTERSTATE SHIPMENT:** Between the approximate dates of October 16, 1947, and May 16, 1949, from the States of Pennsylvania and Michigan into the State of Louisiana.

**ALLEGED VIOLATION:** On or about June 13, July 13 and 20, and August 11 and 26, 1949, while the drugs were being held for sale after shipment in interstate commerce, the defendant caused various quantities of the drugs to be removed from the bottles in which they had been shipped, to be repacked into small bottles, and to be sold to various persons without a prescription, which acts of the defendant resulted in the repackaged drugs being misbranded.

**NATURE OF CHARGE:** Misbranding, Section 502 (b) (1) and (2), the repackaged drugs failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and a statement of the quantity of the contents; Section 502 (e) (1), the repackaged *Benzedrine Sulfate Tablets* failed to bear a label containing the common or usual name of the drug; Section 502 (f) (1), the repackaged *Benzedrine Sulfate Tablets* bore no labeling containing directions for use; and, Section 502 (f) (2), the repackaged *sulfathiazole tablets* bore no labeling containing warnings against use in those pathological conditions where their use may be dangerous to health, and against unsafe dosage and methods and duration of administration.

**DISPOSITION:** April 26, 1950. A plea of nolo contendere having been entered, the court imposed a fine of \$500.

**3064. Misbranding of nembutal capsules, Benadryl Capsules, thyroid tablets, Tuinal Capsules, and Benzedrine Sulfate Tablets. U. S. v. Alden M. Clifford (Nu-Way Stores). Plea of guilty. Fine, \$150. (F. D. C. No. 28117. Sample Nos. 46088-K to 46092-K, incl., 61201-K.)**

**INFORMATION FILED:** January 28, 1950, Western District of Missouri, against Alden M. Clifford, a partner in the partnership of Nu-Way Stores, Joplin, Mo.

**INTERSTATE SHIPMENT:** The drugs were shipped in interstate commerce into the State of Missouri prior to the dates of the sales of such drugs by the defendant, as hereinafter described.

**ALLEGED VIOLATION:** On or about July 11 and 12, 1949, and while the drugs were being held for sale after shipment in interstate commerce, the defendant caused various quantities of the drugs to be repackaged and sold to various