

DRUGS ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS**DRUGS FOR HUMAN USE***

3656. Alleged misbranding of Oracort. U. S. v. Herman Edward Maurry (H. E. Maurry Biological Co.). Plea of not guilty. Tried to the court and jury. Verdict of not guilty. (F. D. C. No. 30014. Sample Nos. 71400-K, 72461-K.)

INFORMATION FILED: March 1, 1951, Southern District of California, against Herman Edward Maurry, trading as the H. E. Maurry Biological Co., Los Angeles, Calif.

ALLEGED SHIPMENT: On or about December 20, 1949, and within the period from on or about September 19, 1949, to on or about December 30, 1949, from the State of California into the States of Arizona and Indiana.

NATURE OF CHARGE: Alleged misbranding, Section 502 (a), certain statements in accompanying blotters entitled "Oracort," pamphlets entitled "Oracort Biologically Standardized Oral Suprarenal Cortex Hormones," and a mimeographed sheet dated November 18, 1949, were false and misleading. These statements represented, suggested, and created the impression that the article would be efficacious in the treatment of arthritis and that it contained a therapeutically significant amount of cortisone, whereas the article was not effective in the treatment of arthritis, and it did not contain a therapeutically significant amount of cortisone.

DISPOSITION: A plea of not guilty having been entered, the matter came on for trial before the court and jury on December 18, 1951. On December 20, 1951, the jury rendered a verdict of not guilty.

3657. Misbranding of Murtex. U. S. v. 4,500 Cartons * * *. (F. D. C. No. 31148. Sample No. 9092-L.)

LABEL FILED: May 25, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 1, 1950, from New York, N. Y.

PRODUCT: 4,500 cartons, each containing 1 bottle of *Murtex*, at Chicago, Ill., in possession of the Martax Botanical Corp.

RESULTS OF INVESTIGATION: The drug was shipped in a 50-gallon drum and was bottled and labeled for the Martax Botanical Corp. after shipment in interstate commerce. Each bottle was packed in a carton, together with a leaflet entitled "Murtex."

LABEL, IN PART: (Carton) "Murtex A Diuretic and Stimulant to the Kidneys. * * * (One fluid Oz.) Alcohol 40% By Volume Contains Fluid Extracts of: Buchu Cimicifuga Collinsonia Guaiacum Also Contains: 60 Mgs. Vitamin B₁ (Thiamine HCL) to each 30 cc."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in the leaflets were false and misleading since these statements represented and suggested that the article was effective to eliminate from the body waste substances that cause the pain of arthritis and rheumatism, loss of energy and appetite, and simple nervousness and sleeplessness, whereas the article was not effective for such purposes. The article was misbranded while held for sale after shipment in interstate commerce.

*See also Nos. 3650, 3652, 3653, 3655.

DISPOSITION: October 5, 1951. The Martax Botanical Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the article be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

3658. Misbranding of blackstrap molasses. U. S. v. 8 Cartons, etc. Amended libel filed following decision of court that original libel be dismissed. Decree of condemnation. (F. D. C. No. 30780. Sample No. 6754-L.)

LIBEL FILED: March 2, 1951, Western District of New York; amended libel filed May 10, 1951.

ALLEGED SHIPMENT: On or about November 30 and December 7, 14, and 21, 1950, and January 11, 1951, by Nature Food Centres, from Boston, Mass.

PRODUCT: 8 cartons, each containing 24 1-pint jars, and 8 cartons, each containing 12 1-quart jars, of *blackstrap molasses* at Rochester, N. Y., in possession of Nature Food Centres, together with a number of copies of a book entitled "Look Younger Live Longer," by Gayelord Hauser, which related to the product.

LABEL, IN PART: (Jar) "Plantation 'The Original' Recommended and Endorsed by Gayelord Hauser Blackstrap Molasses (Crude Black Molasses)
* * * Packed by Allied Molasses Co., Inc., Perth Amboy, N. J."

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the article, namely, the book entitled "Look Younger Live Longer," by Gayelord Hauser, which accompanied the article, contained statements which were false and misleading. The statements represented and suggested that the article would add five youthful years to an individual's life and was an excellent source of many B vitamins; that it was effective in the treatment of deficiencies of B vitamins, in the prevention and treatment of menopausal difficulties and menstrual abnormalities, and in inducing sleep; that it was effective to prevent and correct nervousness, to grow hair and correct baldness, and to restore gray hair and to restore it to its natural color; that it was effective to promote better digestion, healthy nerves, and healthy heart; that it was effective to prevent and correct constipation, poor digestion, tiredness, heart trouble, neuritis, and gas; that it was effective to prevent changes due to old age; and that it was effective to promote normal functioning of the glands. The article was not capable of fulfilling the promises of benefit made for it, and it was not effective for the purposes stated and implied.

The article was misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

The article was alleged also to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: Farrar, Straus & Young, Inc., New York, N. Y., appeared as claimant for the books and moved for an order dismissing the libel insofar as it related to the seized copies of the book. On April 14, 1951, after consideration of the arguments and briefs of counsel, the court handed down the following opinion sustaining the claimant's motion:

BURKE, District Judge: "The government filed a libel of information asking seizure and condemnation under the Federal Food, Drug and Cosmetic Act, 21 U. S. C. 301 et seq. of a certain quantity of 'Plantation' blackstrap molasses, packed by Allied Molasses Co., Inc., and certain copies of a book entitled 'Look Younger, Live Longer' by Gayelord Hauser. The libel alleges in substance