

3745. Misbranding of phenobarbital tablets and pentobarbital sodium capsules. U. S. v. Joseph P. Cataldo (Winton Pharmacy), and Derwent William McCann. Pleas of guilty. Fine of \$500 against Defendant Cataldo and \$250 against Defendant McCann. (F. D. C. No. 32743. Sample Nos. 6760-L, 6767-L, 6769-L, 7762-L, 7763-L.)

INFORMATION FILED: March 31, 1952, Western District of New York, against Joseph P. Cataldo, trading as the Winton Pharmacy, Rochester, N. Y., and Derwent William McCann, a pharmacist employed by Joseph P. Cataldo.

ALLEGED VIOLATION: On or about February 12 and March 12, 1951, while a number of the *phenobarbital tablets* and *pentobarbital sodium capsules* were being held for sale at the Winton Pharmacy after shipment in interstate commerce, the defendants caused various quantities of the drugs to be repacked and dispensed without a prescription, which acts resulted in the repackaged drugs being misbranded.

NATURE OF CHARGE: Misbranding, Section 502 (b) (2), the repackaged drugs failed to bear labels containing accurate statements of the quantity of the contents.

Further misbranding, Section 502 (d), the repackaged drugs contained chemical derivatives of barbituric acid, which derivatives have been found to be, and by regulations designated as, habit forming; and the labels of the repackaged drugs failed to bear the name, and quantity or proportion of such derivatives and in juxtaposition therewith the statement "Warning—May be habit forming."

Further misbranding, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use.

Further misbranding, Section 502 (b) (1), the repackaged *phenobarbital tablets* failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: May 26, 1952. Pleas of guilty having been entered, the court imposed a fine of \$500 on each of the 2 counts of the information against Defendant Cataldo and a fine of \$250 on each of the 2 counts against Defendant McCann, after which the court suspended the fines which had been imposed against the defendants on count 2 of the information.

3746. Misbranding of Donnatal tablets and sulfadiazine tablets. U. S. v. Dewberry Drug Co., Ltd., Milton Temerson, Walker N. Fricks, Grafton G. Smith, and James O. Self. Pleas of *nolo contendere*. Fine of \$50 against each defendant. (F. D. C. No. 31287. Sample Nos. 75113-K, 752-L, 21403-L, 21424-L to 21426-L, incl.)

INFORMATION FILED: December 19, 1951, Northern District of Alabama, against Dewberry Drug Co., Ltd., a partnership, Birmingham, Ala., and against Milton Temerson, a partner in the partnership, and Walker N. Fricks, Grafton G. Smith, and James O. Self, pharmacists for the partnership.

INTERSTATE SHIPMENT: From the States of Virginia and Missouri into the State of Alabama, of quantities of *Donnatal tablets* and *sulfadiazine tablets*.

ALLEGED VIOLATION: On or about September 7, 1950, and January 17, March 8, and May 5 and 7, 1951, while the drugs were being held for sale after shipment in interstate commerce, various quantities of the drugs were repacked and dispensed without a physician's prescription, which acts resulted in the repackaged drugs being misbranded.