

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

26301-26475

[Approved by the Acting Secretary of Agriculture, Washington, D. C., January 29, 1937]

26301. Misbranding of candy. U. S. v. Peoples Drug Stores, Inc. Plea of nolo contendere. Fine, \$10. (F. & D. no. 34071. Sample nos. 4616-B, 4617-B, 4626-B, 4627-B.)

This case involved candy that was short in weight.

On September 11 1935, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture filed in the police court an information against Peoples Drug Stores, Inc., Washington, D. C., alleging that on or about July 5 and July 9, 1934, the defendant had sold in the District of Columbia quantities of candy that was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "Delicious Candies Always Fresh and Pure * * * Peoples Drug Stores And Affiliated Corporations * * * [inconspicuously printed on side panel] 1 Lb. Net."

The article was alleged to be misbranded in that the statement "1 Lb. Net", borne on the box, was false and misleading and tended to deceive and mislead the purchaser since the net weight of the article was not 1 pound but was less; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On September 11, 1935, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$10.

M. L. WILSON, *Acting Secretary of Agriculture.*

26302. Adulteration of cheese. U. S. v. 405 Boxes of Cheese. Default decree of condemnation and destruction. (F. & D. no. 35685. Sample nos. 32042-B, 32043-B, 32044-B.)

This case involved an interstate shipment of cheese that contained filth.

On June 28, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 405 boxes of cheese at Chicago, Ill., alleging that the article had been shipped in interstate commerce in various shipments between the dates of March 27 and April 13, 1935, by the Northroad Cheese Factory from Watertown, Wis., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On March 2, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

26303. Misbranding of strawberry preserves. U. S. v. 45 Cartons of Assorted Preserves. Tried to the court. Judgement for the Government. Decree of condemnation and forfeiture. (F. & D. no. 36803. Sample nos. 44112-B to 44115-B, incl.)

This case involved preserves that were found to be deficient in fruit and to contain added acid and pectin.

On December 18, 1935, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 cartons of assorted preserves among which were a number of jars of alleged strawberry pre-

serves, charging that the article had been shipped in interstate commerce on or about September 23, 1935, by the White Gate Products Corporation from New York, N. Y., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Trump Brand Pure Strawberry Preserves * * * Eastern Wholesale Grocery Co. Distributors Providence, R. I."

The article was alleged to be misbranded in that the statement on the label, "Pure Strawberry Preserves", was false and misleading and tended to deceive and mislead the purchaser when applied to a product resembling a preserve but which contained less fruit than a preserve should contain; and for the further reason that it was an imitation of and was offered for sale under the distinctive name of another article.

On May 12, 1936, the White Gate Products Corporation having appeared as claimant and the case having come on for trial before the court without a jury, the court, on the evidence presented, found the product to be misbranded as charged in the libel. On October 28, 1936, judgment of condemnation and forfeiture was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

26304. Misbranding of canned peas. U. S. v. 650 Cases and 350 Cases of Canned Peas. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. & D. nos. 36892, 37088. Sample nos. 50531-B, 50532-B.)

These cases involved canned peas that fell below the standard established by this Department because of an excessive number of peas that were not immature, and that were not labeled to indicate that they were substandard.

On or about January 7 and January 20, 1936, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,000 cases of canned peas at Hoboken, N. J., alleging that the article had been shipped in interstate commerce on or about December 4, 1935, by G. L. Webster Co., Inc., from Cheriton, Va., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "New Boy Early June Peas * * * American Grocery Company Distributors Hoboken, N. J."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food in that the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On October 5, 1936, the G. L. Webster Co., Inc., having appeared as claimant, and having admitted the allegations of the libels and consented to the entry of a decree, a consolidated judgment of condemnation was entered and it was ordered that the product be released under bond to be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

26305. Misbranding of Lemonina. U. S. v. 1,200 Cartons of Lemonina Lemon Gallon-Ade. Default decree of condemnation and destruction. (F. & D. no. 36930. Sample no. 50628-B.)

This product was represented to be a base from which lemonade could be made but consisted of an acidulated, artificially colored, glucose sirup, flavored with citrus oils, containing a negligible amount, if any, of actual lemon juice.

On January 16, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,200 cartons of Lemonina at New York, N. Y., alleging that the article had been shipped in interstate commerce between the dates of June 15 and October 15, 1935, from Westfield, Mass., by the Lemonina Products Corporation, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lemonina Lemon Gallon-Ade * * * Lemonina Products Corporation, New York City."

The article was alleged to be misbranded in that the statement on the label, "Lemonina Lemon Gallon-Ade Makes One Gallon Delicious Beverage", was false and misleading and tended to deceive and mislead the purchaser in that it implied that the article was a base from which lemonade could be made, whereas it was not; and, further, that it was an imitation of and was offered for sale under the distinctive name of another article, i.e., it imitated a base of lemon sirup consisting of lemon juices and sugar from which lemonade could be made by the addition of water or of water and additional sugar.