

On March 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of as hog feed.

5097. Adulteration and misbranding of gift packages. U. S. v. 63 Gift Packages. Default decree of condemnation and destruction. (F. D. C. No. 9357. Sample No. 36960-F.)

These packages consisted of round boxes with snug fitting covers with a heart-shaped window. In the boxes were 10 thin corrugated paper cups surrounding a small wooden fruit basket. Four of the cups contained cookies, 4 contained candies, and the other 2 cups contained products labeled "Grape Flavor Apple Jelly" and "Damson Plum Jelly," respectively. The contents of the box and the fruit basket were short weight.

On February 11, 1943, the United States attorney for the District of Maryland filed a libel against 63 gift packages at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 25, 1943, by R. L. Albert & Son, Inc., from New York, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: "To My Valentine."

The article was alleged to be adulterated in that an artificially flavored imitation grape-apple jelly had been substituted wholly or in part for "Grape Flavor Apple Jelly," which it was represented to be.

Misbranding was alleged (1) in that the statements "Net 1 Lb. 10 Oz." on the box and "Net * * * 6 $\frac{2}{3}$ Ozs." on the fruit basket were false and misleading as applied to an article that was short weight; (2) in that the name "Damson Plum Jelly" was false and misleading since the product so labeled failed to conform to the definition and standard of identity promulgated pursuant to law for damson plum jelly; (3) in that the name "Grape Flavor Apple Jelly" was false and misleading since the product so labeled was an artificially flavored imitation grape-apple jelly; (4) in that the "Grape-Flavor Apple Jelly" was an imitation of another food, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated; (5) in that its container was so made, formed, and filled as to be misleading since the heart-shaped window exposed to view only candy, whereas the package also contained cookies and jelly; and furthermore that the fruit basket contained an excessive amount of paper stuffing, and the ingredient statement captioned "Altray-Mar-Zee-Pon" furthered the misleading impression that the container consisted of the marzipan candy fruits, an almond paste product; (6) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; (7) in that it was fabricated from two or more ingredients and the common or usual name of each such ingredient, required by law to appear on the label, was not prominently placed thereon in such terms as to render it likely to be understood by the ordinary individual under customary conditions of purchase and use; and (8) in that the jar labeled "Damson Plum Jelly" was represented as a food for which a definition and standard of identity had been prescribed by regulations promulgated pursuant to law, but it failed to conform to such definition and standard since its soluble solids content was less than 65 percent, as required by the standard.

On April 1, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5098. Adulteration and misbranding of gift packages. U. S. v. 55 Gift Packages. Default decree of condemnation and destruction. (F. D. C. No. 9762. Sample No. 36975-F.)

This product consisted of a circular cardboard box with a heart-shaped or egg-shaped window in the lid. In the center of the box was a small wooden berry-type basket containing seven small almond paste imitation fruits in paper cups. Surrounding this fruit basket were the various other items.

On April 6, 1943, the United States attorney for the District of Maryland filed a libel against 55 gift packages at Baltimore, Md., alleging that the articles had been shipped in interstate commerce on or about January 29, 1943, by R. L. Albert & Son, Inc., from New York, N. Y.; and charging that they were misbranded and that one item contained in the packages, "Grape Flavor Apple Jelly," was also adulterated. The article was labeled in part: (Top of box) "To My Valentine," or "Easter Greetings"; (sticker on side of box) "Altray Mar-Zee-Pon Ingredients"; (sticker on fruit basket in box) "Altray Mar-Zee-Pon * * * Net Weight * * * 6 $\frac{2}{3}$ Ozs."; (label on one jar in box) "Grape Flavor Apple Jelly * * * Net 1 $\frac{1}{2}$ oz."; or (label on other jar in box) "Damson Plum Jelly."

The grape flavor apple jelly was alleged to be adulterated in that an artificially flavored grape jelly had been substituted wholly or in part for it.

The fruit basket and grape flavor apple jelly were alleged to be misbranded in that the statements "Net * * * 6 $\frac{2}{3}$ Ozs." on the former, and "1 $\frac{1}{2}$ Oz" on the jar containing the latter were false and misleading since the basket and jar were short