

10005. Adulteration of orange drink. U. S. v. 50 Cases of Orange Drink. Default decree of condemnation and destruction. (F. D. C. No. 17333. Sample No. 4756-H.)

LABEL FILED: August 30, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 4, 1945, by the Holly Beverage Co., from Mount Holly, N. J.

PRODUCT: 50 cases, each containing 24 bottles, of orange beverage at Philadelphia, Pa. This product was sweetened in part with saccharin.

LABEL, IN PART: "Artificial Color Orange Drink Carbonated Beverage Containing Carbonated Water, Sugar, Citric Acid, Orange Oil, and Juice."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, sugar, had been in part omitted from the article; Section 402 (b) (2), a carbonated beverage containing saccharin had been substituted in whole or in part for one sweetened with sugar, which the article was represented to be; and, Section 402 (b) (4), saccharin, a substance having no food value, had been added to the article and mixed and packed with it so as to reduce its quality or strength.

DISPOSITION: September 18, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. The empty bottles were ordered retained in the custody of the consignee.

10006. Adulteration and misbranding of Pineapple Fruit Drink. U. S. v. 95 Cases of Pineapple Fruit Drink. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 17296. Sample No. 7435-H.)

LABEL FILED: August 23, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about July 21, 1945, by the Bay Ridge Packing Co., Rochester, N. Y.

PRODUCT: 95 cases, each containing 12 1-quart bottles, of pineapple beverage at Jersey City, N. J. Analysis showed that this product was an artificially flavored solution of water and sugar with phosphoric acid. It contained no citric acid and a negligible amount, if any, of pineapple juice.

LABEL, IN PART: (Bottles) "Hawaiian Delight Pineapple Fruit Drink."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, pineapple juice, had been in whole or in part omitted from the article; and, Section 402 (b) (2), an artificially flavored solution of water, sugar, and phosphoric acid had been substituted in whole or in part for "Pineapple Fruit Drink," which the article was represented to be.

Misbranding, Section 403 (a), the name, "Hawaiian Delight Pineapple Fruit Drink," and the label statement, "Contains: Pineapple Juice, Syrup, Imitation Pineapple Flavor, Water, Citric Acid," were false and misleading; and, Section 403 (c), the article was an imitation of another food, and its label failed to bear the word "imitation" and, immediately thereafter, the name of the food imitated.

DISPOSITION: November 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

10007. Action to enjoin and restrain the manufacture in the District of Columbia and the shipment in interstate commerce of adulterated bakery products. U. S. v. James G. Maselas, trading as the Washington Doughnut Co. Tried to the court. Injunction granted. (Inj. No. 89.)

COMPLAINT FILED: On or about March 14, 1945, District of Columbia, against James G. Maselas, trading as the Washington Doughnut Co., at Washington, D. C. The complaint charged that from on or about March 24, 1944, the defendant had been and would continue manufacturing bakery products under insanitary conditions, whereby the products became, and were, adulterated; and that the defendant had been and would continue introducing and delivering such products into interstate commerce.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances; and, Section 402 (a) (4), the products had been and were being prepared, packed, and held under insanitary conditions whereby they were contaminated with filth.

PRAYER OF COMPLAINT: That the defendant be restrained and enjoined during the pendency of the action and permanently, from manufacturing and from shipping in interstate commerce foods which were adulterated within the meaning of the above-mentioned sections of the law.

DISPOSITION: On March 14, 1945, a temporary restraining order was issued against the defendant. Thereafter, consideration was given to the question of granting a preliminary injunction, and, in connection therewith, the court, on March 22, 1945, handed down the following findings of fact and conclusions of law:

MATTHEW F. MCGUIRE, *District Judge*: "On the allegations in the Complaint for Injunction which are supported by the facts set forth in the affidavits attached thereto, I find the following facts:

"1. The defendants have been and at the time the temporary restraining order in this cause was served on them, were engaged in the manufacture, production, and distribution of various and sundry bakery products in and from 1125 Seventh St., N. W., Washington, D. C.

"2. The portion of the premises in which said operation has been conducted consist of the entire first floor, basement, and second floor in rear of premises. Portions of said premises, including the wall coverings, ceilings, and flooring on the first floor have been infested with vermin, rats, and various and sundry putrid substances. The rear portion of the premises contained openings which are not adequately sealed to prevent rodent entrance into the plant. Other portion of the premises are in such extreme state of disrepair and disintegration as to afford openings for vermin to make entrances and create unsanitary conditions.

"3. The defendants have been and at the time the temporary restraining order in this action was served on them, were manufacturing within the District of Columbia food that consisted in whole or in part of filthy substances.

"4. The defendants have been and at the time of the temporary restraining order in this action was served on them, were manufacturing within the District of Columbia food that is prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth.

"5. The defendants have been, and at the time of the temporary restraining order in this action was served on them, were introducing or delivering for introduction into interstate commerce food that consists in whole or in part of filthy or putrid substances.

"6. The defendants have been, and at the time the temporary restraining order in this action was served on them, were introducing or delivering for introduction into interstate commerce food that has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth.

"Upon the foregoing facts the following conclusions of law are stated:

"1. The defendants have been and at the time the temporary restraining order in this action was served on them, were manufacturing within the District of Columbia in violation of 21 U. S. C. 331 (g) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4).

"2. The defendants have been and at the time the temporary restraining order in this action was served on them, were introducing or delivering for introduction into interstate commerce in violation of 21 U. S. C. 331 (a) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4)."

On March 22, 1946, a preliminary injunction was issued against the defendant, to be effective until the final hearing of the case. Subsequently the defendant filed an answer denying that it was in the public interest to issue a permanent injunction. A motion for summary judgment was subsequently filed by the Government's attorney, and on May 14, 1946, the motion was granted, and an order was entered permanently enjoining the defendant from manufacturing and introducing and delivering for introduction into commerce in the District of Columbia any food that consisted in whole or in part of filthy or putrid substances or that had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.