

Examination disclosed that the composition of the article, with the exception of the Muskogee lot, was essentially the same as that of the product which was the subject of seizure in the cases reported in notices of judgment on drugs and devices, No. 1231. The Muskogee lot contained epsom salt, citrated caffeine, iron chloride, and ammonium chloride dissolved in a mixture of water and glycerin, and it contained no quinine or other antimalarial. All lots of the article were similar in appearance and packaging to the drug which contained quinine sulfate and which was previously marketed by the Monticello Drug Co. for the treatment of malaria.

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling on the bottles and carton was misleading in that the numerals "666," appearing on the labeling in red on a yellow background, and the yellow, red, and black color scheme of the other portions of the labeling, and the price of the article printed on the labeling, in combination constituted a statement and device which created the impression and belief that the article was the article of drug "666" which contained quinine sulfate and which was formerly for many years advertised, sold, and used as a treatment for malaria; Section 502 (i) (1), the container was so made, formed, and filled as to be misleading in that its shape, color, and appearance created the impression and belief that the article was the former product which contained quinine sulfate; Section 502 (i) (2), the product was an imitation of another drug in that its name, labeling, and color, and the color, shape, and appearance of the container, simulated the former product; and, Section 502 (i) (3), it was offered for sale under the name of another drug, the former product.

DISPOSITION: March 27, 1945. The Monticello Drug Co., claimant for the Wichita lot, filed an answer denying that the product in such lot was misbranded, to which the Government entered a plea of res judicata, alleging that the parties and the issues of the case of *The United States v. 70½ Dozen Bottles of "666,"* filed October 12, 1943, in the Middle District of Georgia, Valdosta Division, were identical with the present case, and that the court in that case had rendered a judgment in favor of the Government. The court, after hearing argument of counsel, sustained the Government's plea of res judicata and judgment was entered condemning the product and ordering its destruction. Between February 26 and June 6, 1945, the sole intervener in the action against the Dallas lot having consented to the entry of a decree, and no claimant having appeared for the remaining lots, judgments of condemnation were entered and the product was ordered destroyed.

1587. Misbranding of "666." U. S. v. 70 Bottles of "666." Decree of condemnation and destruction. (F. D. C. No. 15645. Sample No. 22319-H.)

LABEL FILED: On or about March 26, 1945, Western District of Missouri.

ALLEGED SHIPMENT: On or about November 3, 1944, by the Griffin Grocery Co., from Muskogee, Okla.

PRODUCT: 70 6-ounce bottles of "666" at Joplin, Mo. Analysis showed that the product contained epsom salt, citrated caffeine, iron chloride, and ammonium chloride, dissolved in a mixture of water and glycerin. It contained no quinine or other antimalarial. The article was similar in appearance and packaging to the drug which contained quinine sulfate and which was previously marketed by the Monticello Drug Co. for the treatment of malaria.

LABEL, IN PART: "666 Liquid * * * Monticello Drug Company, Jacksonville, Fla."

NATURE OF CHARGE: The article was alleged to be misbranded in the same manner as that of the product which was the subject of seizure in the cases reported in notices of judgment on drugs and devices, No. 1586.

DISPOSITION: April 23, 1945. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

1588. Misbranding of Monarch Vitamins. U. S. v. 3,453 Bottles of Monarch Vitamins. Default decree of condemnation and destruction. (F. D. C. No. 13413. Sample No. 54632-F.)

LABEL FILED: September 19, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 24, 1944, by the Cerophyl Laboratories, from Kansas City, Mo.

PRODUCT: 3,453 bottles, each containing 225 tablets, of Monarch Vitamins at Chicago, Ill.