

prior to the submission of the case for the jury's consideration; that the case was discussed before the juror; and that there was misconduct on the part of the juror in that the matter was not called to the attention of the court. The claimant filed notice of appeal on 7-16-57.

On 8-23-57, the district court entered a decision with respect to the claimant's second motion for a new trial, as follows:

MILLER, District Judge: "On May 28, 1957, an opinion and order was filed denying the claimant's motion for new trial. The claimant on July 9, 1957, pursuant to Rule 59 and Rule 60 of the Federal Rules of Civil Procedure, filed a second motion for a new trial and on July 16, 1957, filed notice of appeal. The filing of the notice of appeal vests jurisdiction over the cause appealed in the Court of Appeals and this court has no power to take other action affecting the cause without permission of the Court of Appeals, except insofar as jurisdiction is expressly reserved in the district court by statute or the Federal Rules of Civil Procedure. See *In the Matter of Federal Facilities Realty Trust Company, et al., Appellant vs. Jacob Kulp, et al., Appellees*, 227 F. 2d 651 (7 Cir.)."

On 8-29-57, the claimant filed a motion to remand the cause to the trial court, so that a hearing on the second motion for a new trial might be had in the district court. The United States Court of Appeals for the Third Circuit, after a hearing, entered an order denying the motion on 9-4-57.

On 9-5-57, the claimant filed a motion for amplification of the order, denying the motion to remand, and on 9-10-57, filed a motion to strike the Defender Magazine as part of the record on appeal. These motions were denied by the court of appeals on 9-23-57.

On 10-4-57, the claimant and the Government filed an agreement to dismiss the appeal; the court of appeals entered an order on 10-7-57 dismissing the appeal, the costs to be assessed against the appellant.

On 10-22-57, the district court entered an order directing the marshal to destroy the tablets and the accompanying labeling.

5213. Digitalis tablets. (F. D. C. No. 39515. S. No. 46-899 M.)

QUANTITY: 1 btl. containing 14,000 tablets at Philadelphia, Pa.

SHIPPED: 8-30-56, from Camden, N. J., by Olmstead Labs.

RESULTS OF INVESTIGATION: Examination of the article showed that it had a potency of 1.06 grs. of U. S. P. digitalis per tablet.

LIBELED: 10-10-56, E. Dist. Pa.

CHARGE: 502 (a)—the statement on the label of the article, when shipped, namely, "Tablets Digitalis U. S. P. 1½ Grains," was false and misleading.

DISPOSITION: 11-5-56. Default—destruction.

5214. Manganese dioxide. (F. D. C. No. 39069. S. Nos. 41-358/60 M.)

QUANTITY: 1 20-lb. drum, 10 4,000-tablet btls., 1 2,000-tablet btl., and 7 1,000-tablet btls. at Buffalo, N. Y., in possession of Jopp Pharmacal Co., Inc.

SHIPPED: 8-1-55, from Phillipsburg, N. J.

LABEL IN PART: (Drum) "Manganese Dioxide, Technical * * * Powder * * * For Manufacturing Use Only": (btl.) "Jopp's Tablets Manganese Dioxide C. P. (MnO₂) Each Capsule contains Manganese Dioxide 5 grs. combined with 2½ grs. Sodium Bicarbonate and Aromatics."

RESULTS OF INVESTIGATION: The article had been shipped in bulk in powdered form, and upon arrival at Buffalo, N. Y., the consignee tableted and repack