

False Results Put Drug Tests Under Microscope

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By Darren Lum for USA TODAY

For Nadine Artemis and Ron Obadia, August began with plans for a family vacation in Minnesota. The vacation ended with the two Canadian citizens being led through Toronto's airport in handcuffs, locked up and separated from their baby.

"We were dumbfounded," Artemis says. Police told them they could be facing years in prison for exporting narcotics, because 2.5 pounds of material found in their carry-on bag tested positive for hashish. "All we knew was that we didn't have drugs."

They were telling the truth. They didn't have drugs. They had chocolate.

The couple were caught up in what civil libertarians, public defenders and some narcotics experts say is a growing problem: the use of unreliable field drug-test kits as the basis to arrest innocent people on illegal drug charges.

The inexpensive test kits are used by virtually every police department in the country and by federal agents, including Customs officers at the nation's borders. The kits test suspicious materials, and a positive result generally leads to an arrest and court date, pending more sophisticated tests done after the sample is sent to a lab.

The kits use powerful acids that react with the substance in a plastic pouch. If the liquid turns a certain color, it is considered a positive result. But a number of legal products and plants test positive: chocolate for hashish; rosemary for marijuana; and natural soaps for the "date-rape drug" GHB.

"The tests have no validity," says former FBI narcotics investigator Frederick Whitehurst. And as more organic products come on the market, "the potential for civil rights violations when these presumptive tests are out there is phenomenal."

Although police have been using the field test kits for decades, "there's no regulation, no oversight that these drug tests perform in any way," says Dr. Bronner's Magic Soaps President David Bronner, whose products have tested positive for GHB.

With the growth of organic and natural foods and products, experts say arrests may increase.

"We are alarmed by the growing number of people who have been taken to jail for simply possessing organic products," says Ronnie Cummins, director of the Organic Consumers Association.

On Aug. 29, Artemis and Obadia, founders of Living Libations, a company that makes organic and natural food and beauty products in Haliburton, Ontario, were cleared of the charges when lab tests showed they were simply transporting chocolate.

Then, on Sept. 11, they were expecting to drive across the border in Lewiston, N.Y., on their way to natural health festival. The couple hired a lawyer to go with them just in case they were stopped again.

It did no good.

Officers searched their bags, and ran drug tests on their food and toiletries. The chocolate again came up positive for drugs, as did a bottle of tea tree oil, a natural antiseptic and antifungal.

Officers arrested Obadia, and he is now home waiting for lab results that he says will exonerate him again. The first time he was arrested, "I was so naive," he says. "I thought somebody must have planted drugs in our bag. We didn't know the tests could be faulty."

So far, the couple's legal bills have topped \$20,000, covered in part by Bronner's company.

Customs spokesman Lloyd Easterling declined to comment about the case or the use of the kits.

Others who have been wrongly accused:

- Cornelius Salonis of Shakopee, Minn., who spent two months in jail after police stopped him in August for driving drunk and tested deodorant in his car that registered positive for cocaine.

Mankato, Minn., public defender Richard Hillesheim says Salonis admitted to the drunken-driving charge "but he was scared witless about this drug charge that came out of left field." Lab tests ultimately showed there was no cocaine.

- Punk rocker Don Bolles, who spent three days in jail in Newport Beach, Calif., in 2007 after his Dr. Bronner's soap tested positive for GHB. The charges were dropped when lab tests found no drugs.

Government officials say there are no records on the number of people who have been wrongly arrested because of the tests. Garrison Courtney of the Drug Enforcement Agency says the test kits are "not perfect but they give you a pretty good idea" whether a suspicious substance is an illegal drug.

Allen Miller of Forensic Source, which makes kits, says they find "families of chemical compounds" and are not meant to be definitive. Any arrest should be the result of good investigative police work, Miller says.

But Adam Wolf of the ACLU says "police officers and drug-test companies should not subject our constitutional rights to a game of chance."